

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 3

144-4 INVESTIGATIVE PROCEDURE

(1) Investigations should not be restricted to determining the activities of isolated individuals engaged in selling lottery tickets as prosecution of small-scale vendors does not disrupt the operations of a large lottery organization. Every effort should be expended to ascertain the identities of the promoters, printers, and main distributors who comprise the lottery "ring." In this connection, the possibility of obtaining prosecution on conspiracy charges should always be kept in mind.

(2) It is particularly important to determine the location of the lottery headquarters and the method and extent of distribution of the lottery tickets. It is essential that proof of interstate or foreign transportation be secured.

(3)

b2
b7E
The name of the official competent to present the documents in evidence should be ascertained.

(4)

(5)

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☒ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☒ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- ☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of _____

Page(s) withheld for the following reason(s): _____

- ☐ The following number is to be used for reference regarding these pages: _____

 XXXXXXXXXXXXXXXXXXXX
 X Deleted Page(s) X
 X No Duplication Fee X
 X for this page X
 XXXXXXXXXXXXXXXXXXXX
XXXXXX
XXXXXX
XXXXXX

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 5

EFFECTIVE: 10/18/88

144-5 PULL BOARDS, TIP BOARDS, AND PUNCHBOARDS

(1) Numerous investigations conducted in the field have focused attention upon the problem of whether so-called pull boards, tip boards, punchboards, jackpot pools, baseball, football, bowling, and other types of chance boards which are capable of being used in a lottery come within the scope of the Federal lottery statute, Title 18, USC, Section 1301.

(2) The Department has furnished an opinion regarding such cases in which it is stated that manufacturers, salespeople, or users of such devices cannot be prosecuted for operating a lottery in violation of Section 1301. This ruling is predicated on two legal requirements stipulating:

(a) That at the time of transportation of such devices there must be actually in existence an active lottery. It is not sufficient that the device is capable of being used in a lottery or may, in fact, be so used after it moves in interstate commerce. The tickets do not become a part of, or represent, shares in a lottery until the individual pool-hall or beer-parlor operator, to whom such tickets are sold or delivered after interstate transportation, establishes his/her own lottery.

(b) The lottery devices do not in and of themselves purport to be or represent a ticket, chance, or share in a lottery. They can, like dice or playing cards, be used for gambling or other illegal purposes, but they may never be used at all or they could possibly be used innocently.

EFFECTIVE: 10/18/88

144-6 VENUE

In the judicial district from which the tickets are transported or any judicial district through or into which they are carried (Title 18, USC, Section 3237).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 6

EFFECTIVE: 10/18/88

| 144-7 | REPORTING PROCEDURES

(1) In 144A cases involving LCN members and/or associates or 144B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicated the case and sufficient identification data on the subject(s) for indexing purposes.

(2) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(3) The results and/or summary of investigation should be reported by airtel.

(4) In 144C cases, no reporting to FBIHQ is required.

EFFECTIVE: 10/18/88

| 144-8 | CHARACTER - INTERSTATE TRANSPORTATION OF LOTTERY
TICKETS

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 1

SECTION 145. INTERSTATE TRANSPORTATION OF OBSCENE MATTER;
SEXUAL EXPLOITATION OF CHILDREN; BROADCASTING
OBSCENE LANGUAGE

145-1 STATUTE

Title 18, USC, Sections 1462, 1464, 1465, 1466, 1467,
1468, 1469, 2251, 2252, 2253, 2254, 2256, and 2257.

EFFECTIVE: 07/26/89

145-1.1 Section 1462. Importation or Transportation of Obscene
Matters

"Whoever brings into the United States, or any place
subject to the jurisdiction thereof or knowingly uses any express
company or other common carrier, for carriage in interstate or foreign
commerce--

"(a) any obscene, lewd, lascivious, or filthy book,
pamphlet, picture, motion-picture film, paper, letter, writing, print,
or other matter of indecent character; or

"(b) any obscene, lewd, lascivious, or filthy phonograph
recording, electrical transcription, or other article or thing capable
of producing sound; or

"(c) any drug, medicine, article, or thing designed,
adapted, or intended for producing abortion, or for any indecent or
immoral use; or any written or printed card, letter, circular, book,
pamphlet, advertisement, or notice of any kind giving information,
directly or indirectly, where, how, or of whom, or by what means any
of such mentioned articles, matters, or things may be obtained or
made; or

"Whoever knowingly takes from such express company or
common carrier any matter or thing the carriage of which is herein
made unlawful--

"Shall be fined not more than \$5,000 or imprisoned not
more than five years, or both, for the first such offense and shall be

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 2

fined not more than \$10,000 or imprisoned not more than ten years, or both, for each such offense thereafter."

EFFECTIVE: 07/26/89

145-1.1.1 Elements

(1) Bringing or causing to be brought into the United States or any place subject to the jurisdiction thereof any obscene matter

(2) Knowingly using any express company or other common carrier for carriage of obscene matter in interstate or foreign commerce

(3) Knowingly taking or causing to be taken from an express company or other common carrier any matter or thing, the carriage of which is made unlawful by the act

In order to establish a violation of this section, it must be shown that an express company or other common carrier was used for the interstate transportation of obscene material. The interstate transportation of such material by privately owned motor truck or by automobile does not come within the purview of this section.

EFFECTIVE: 07/26/89

145-1.2 Section 1464. Broadcasting Obscene Language

"Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than \$10,000 or imprisoned not more than two years, or both."

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 3

145-1.2.1 Elements

- (1) Whoever utters language
- (2) That is obscene, indecent or profane
- (3) By means of radio communication

EFFECTIVE: 07/26/89

145-1.3 Section 1465. Transportation of Obscene Matters for Sale or Distribution

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution, or knowingly travels in interstate commerce, or uses a facility or means of interstate commerce for the purpose of transporting obscene material in interstate or foreign commerce, any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"The transportation as aforesaid of two or more copies of any publication or two or more of any article of the character described above, or a combined total of five such publications and articles, shall create a presumption that such publications or articles are intended for sale or distribution, but such presumption shall be rebuttable.

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 4

145-1.3.1 Elements

(1) Whoever knowingly transports in interstate or foreign commerce or knowingly travels in interstate commerce of uses a facility or means of interstate commerce for the purpose of transporting any obscene matter

(2) Two or more copies of obscene publication or two or more of any article of obscene character or a combined total of five publications and articles create presumption obscene items are for sale or distribution, such presumption rebuttable

(3) The use of a "facility or means" of commerce includes interstate highway systems, federally financed highways, and interstate railroads. Interstate commerce now can take place using motor vehicles, boats and airplanes and

(4) It would not be necessary to demonstrate that obscene material actually traveled interstate but only that a "facility or means" of interstate commerce or foreign sale was used

EFFECTIVE: 07/26/89

145-1.4 Section 1466. Engaging in the Business of Selling or Transferring Obscene Matter

"(a) Whoever is engaged in the business of selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than five years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 5

more such publication and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b)."

EFFECTIVE: 07/26/89

145-1.4.1 Elements

(1) Prohibits the receipt or possession with intent to sell obscene matter.

(2) The obscene matters has been shipped or transported in interstate or foreign commerce by any means by a person so engaged in the business.

EFFECTIVE: 07/26/89

145-1.5 Section 1467. Criminal Forfeiture

"(a) Property subject to criminal forfeiture. A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in -

"(1) any obscene material produced, transported, mailed, shipped, or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

"(b) Third party transfers. All right, title and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 6

forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section."

(1) See the Federal Criminal Code and Rules, Title 18, USC, Section 1467, for further information concerning protection orders, warrant of seizure, order of forfeiture, execution, disposition of property, authority of Attorney General, bar on intervention, jurisdiction to enter orders, dispositions, third party interests, and substitute assets.

(2) Prior to proceeding with any criminal forfeiture, the case Agent should contact the respective division's Forfeiture Analyst for assistance. If needed, further help can be obtained from the Forfeiture and Seized Property Unit, Property Procurement and Management Section, Finance Division.

EFFECTIVE: 03/07/94

145-1.6 Section 1468. Distributing Obscene Material by Cable or Subscription Television

"(a) Whoever knowingly utters any obscene language or distributes any obscene matter by means of cable television or subscription services on television, shall be punished by imprisonment for not more than 2 years or by a fine in accordance with this title, or both.

"(b) As used in this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite, or to produce or provide material for such distribution.

"(c) Nothing in this chapter, or the Cable Communications Policy Act of 1984, or any other provision of Federal law, is intended to interfere with or preempt the power of the States, including political subdivisions thereof, to regulate the uttering of language that is obscene or otherwise unprotected by the Constitution or the distribution of matter that is obscene or otherwise unprotected by the Constitution, of any sort, by means of cable television or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 7

| subscription services on television."

EFFECTIVE: 07/26/89

| 145-1.7 Section 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce."

EFFECTIVE: 07/26/89

| 145-1.8| Section 2251. Sexual Exploitation of Children

"(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce or in any Territory or Possession of the United States, with the intent that such minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (d), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

"(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 8

shall be punished as provided under subsection (d) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

"(c) (1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering-

"(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

"(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct; shall be punished as provided under subsection (d).

"(2) The circumstance referred to in paragraph (1) is that-

"(A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means including by computer or mailed; or

"(B) such notice or advertisement is transported in interstate or foreign commerce by any means including by computer or mailed

"(d) Any individual who violates this section shall be fined not more than \$100,000, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this section, such individual shall be fined not more than \$200,000, or imprisoned not less than five years nor more than 15 years, or both.

"Any organization which violates this Section shall be fined not more than \$250,000."

EFFECTIVE: 07/26/89

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 9

145-1.8.1 Elements

(1) Any person or organization who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce or in any Territory or Possession of the United States, with the intent that such minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(2) Any parent, legal guardian, person, or organization having custody or control of a minor who knowingly permits such minor to engage in, or assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(3) Any person, who makes, prints, or publishes, or causes to be made, printed, or published any notice or advertisement seeking or offering to receive, exchange, buy, produce, display, distribute, reproduce or participate, in any visual depiction if the production of visual depiction is of and involves the use of a minor engaging in sexually explicit conduct.

(4) Knows or has reason to know that such visual depiction or notice or advertisement of such will be or had actually been transported in interstate or foreign commerce by an means including by computer or mailed, or knowingly reproduces any visual depiction or notice or advertisement for distribution in interstate or foreign commerce by any means including by computer or through the mails.

EFFECTIVE: 07/26/89

145-1.9 Section 2251A. Selling or Buying of Children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor or offers to sell or otherwise transfer custody of such minor either

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in sexually explicit conduct: or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 10

"(2) with intent to promote either

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in sexual explicit conduct; or

"(2) with intent to promote either

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that

"(1) in the course of the conduct described in such subsections, the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 11

communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States."

EFFECTIVE: 07/26/89

145-1.9.1 Elements

(1) Prohibits the parent, legal guardian or other person having "custody or control" of a minor who sells or otherwise transfers custody or control of such minor

(a) with knowledge that the minor will be used in the production of child pornography or

(b) "with intent to promote" the minor's sexually explicit conduct in order to produce a visual depiction of the conduct.

(2) This section would also punish the person who "purchases or otherwise obtains custody of" the minor with such knowledge or intent.

(3) Federal jurisdiction is premised on travel or transportation in interstate or foreign commerce involving either the offer, minor or on conduct that takes place in a U.S. territory or possession.

(4) "Custody or control" includes temporary supervision over or responsibility for a minor, whether legally or illegally obtained. This would include persons such as teachers and day care center employees, as well as a kidnaper.

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 12

145-1.10 Section 2252. Certain Activities Relating to Material
Involving the Sexual Exploitation of Minors

"(a) Any person who-

"(1) knowingly transports or ships
in interstate or foreign commerce by any means, including by
computer or mails any visual depiction, if-

"(A) the producing of such visual depiction
involves the use of a minor engaging in sexually explicit conduct; and
"(B) such visual depiction is of such

conduct; and

"(2) knowingly receives, or distributes any
visual depiction that has been mailed, or has been shipped or
transported in interstate or foreign commerce, or which contains
materials which have been mailed or so shipped or transported, by any
means including by computer, or knowingly reproduces any visual
depiction for distribution in interstate or foreign commerce by any
means including by computer or through the mails, if-

"(A) the producing of such visual depiction
involves the use of a minor engaging in sexually explicit conduct; and
"(B) such visual depiction is of such conduct;

"(3) either -

"(A) in the special maritime and territorial
jurisdiction of the United States, or on any land or building owned
by, leased to, or otherwise used by or under the control of the
Government of the United States, or in the Indian country as defined
in section 1151 of this title, knowingly sells or possesses with
intent to sell any visual depiction; or

"(B) knowingly sells or possesses with intent to
sell any visual depiction that has been mailed, or has been shipped or
transported in interstate or foreign commerce, or which was produced
using materials which have been mailed or so shipped or transported,
by any means, including by computer, if -

"(i) the producing of such visual depiction
involves the use of a minor engaging in sexually explicit conduct; and
"(ii) such visual depiction is of such

conduct; or

"(4) either -

"(A) in the special maritime and territorial
jurisdiction of the United States, or on any land or building owned
by, leased to, or otherwise used by or under the control of the
Government of the United States, or in the Indian country as defined
in section 1151 of this title, knowingly possesses 3 or more books,
magazines, periodicals, films, video tapes, or other matter which

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 13

contain any visual depiction; or

"(B) knowingly possesses 3 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if -

"(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(ii) such visual depiction is of such conduct; shall be punished as provided in subsection (b) of this section.

"(b) (1) Whoever violates paragraph (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than ten years, or both, but, if such person has a prior conviction under this section, such person shall be fined under this title and imprisoned for not less than five years nor more than fifteen years.

"(2) Whoever violates paragraph (4) of subsection (a) shall be fined under this title or imprisoned for not more than five years, or both."

EFFECTIVE: 12/10/91

145-1.10.1 Elements

(1) Any person who knowingly transports, ships, receives, distributes, or knowingly reproduces any visual depiction for distribution, in interstate or foreign commerce by any means, including by computer or mails, of any visual depiction, if the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct, and such visual depiction is of such conduct.

(2) Title III of the Crime Control Act of 1990 known as the "Child Protection Restoration and Penalties Enhancement Act of 1990" effectively made possession of child pornography a Federal offense. Section 2252 was modified to allow prosecution when an individual knowingly possesses three or more items which were produced using materials which traveled in interstate commerce.

(a) The pornography does not have to travel in interstate commerce.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 14

(b) The material used to produce the pornography has an interstate character. This can be proven by showing the photographic paper, video tape material, camera utilized or any other item was manufactured outside the state. Alternatively, a showing that no such material is manufactured in the state is sufficient to show an interstate nexus.

(c) Three or more items of child pornography means three or more photographs, three or more videos, three or more computer disks, etc., or any combination of three.

EFFECTIVE: 12/10/91

145-1.11 Section 2253. Criminal Forfeiture

"(a) Property subject to criminal forfeiture. A person who is convicted of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter shall forfeit to the United States such person's interest in

"(1) any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense."

(1) See the Federal Criminal Code and Rules, Title 18, USC, Section 2253, for further information concerning protective orders, warrant of seizure, order of forfeiture, execution, disposition of property, authority of Attorney General, bar on intervention, jurisdiction to enter orders, depositions, third party interests and substitute assets.

(2) Prior to proceeding with any criminal forfeiture, the case Agent should contact the respective division's Forfeiture Analyst

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 15

for assistance. If needed, further help can be obtained from the Forfeiture and Seized Property Unit, Property Procurement and Management Section, Finance Division.

EFFECTIVE: 03/07/94

145-1.12 Section 2254. Civil Forfeiture

"(a) Property subject to civil forfeiture. The following property shall be subject to forfeiture by the United States:

"(1) any visual depiction described in sections 2251, 2251A, or 2252 or this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any visual depiction, which was produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) any property, real or personal, used or intended to be used to commit or to promote the commission of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(3) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) Seizure pursuant to supplemental rules for certain admiralty or maritime claims. Any property subject to forfeiture to the United States under this section may be seized by the Attorney General, the Secretary of the Treasury, or the U.S. Postal Service upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 16

search under a search warrant or incident to an arrest. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) Custody of Federal official. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, Secretary of the Treasury, or the U.S. Postal Service, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General, Secretary of the Treasury, or the U.S. Postal Service may

"(1) place the property under seal;

"(2) remove the property to a place designated by the official or agency; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) Other laws and proceedings applicable. All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for the purpose by the Attorney General, the Secretary of the Treasury, or the U.S. Postal Service, except to the extent that such duties arise from seizures and forfeitures affected by any customs officer.

"(e) Sections 1606, 1613, 1614, 1617, and 1618 of title 19, United States Code, shall not apply with respect to any visual depiction or any matter containing a visual depiction subject to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 17

forfeiture under subsection (a)(1) of this section.

"(f) Disposition of forfeited property. Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and, with respect to property described in paragraph (2) or (3) of subsection (a), may

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, state, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law. The Attorney General, Secretary of the Treasury, or the U.S. Postal Service shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State and local law enforcement agency, so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by an official or agency pursuant to paragraph (1) shall not be subject to judicial review. With respect to a forfeiture conducted by the Attorney General, the Attorney General shall forward to the Treasurer of the United States for deposit in accordance with Section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter. With respect to a forfeiture conducted by the Postal Service, the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be deposited in the Postal Service Fund as required by section 2003(b)(7) of title 39.

"(g) Title to property. All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) Stay of proceedings. The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 18

"(i) Venue. In addition to the venue provided for in section 1395 of title 28 or any another provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought."

EFFECTIVE: 12/10/91

145-1.13 Section 2255. Civil Remedy for Personal Injuries

"(a) Any minor who is a victim of a violation of section 2251 or 2252 of this title and who suffers personal injury as a result of such violation may sue in any appropriate U.S. District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.

"(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability."

EFFECTIVE: 07/26/89

145-1.14 Section 2256. Definitions for Chapter

"For the purposes of this chapter, the term -

- "(1) 'minor' means any person under the age of 18 years;
- "(2) 'sexually explicit conduct' means actual or simulated

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 19

"(D) sadistic or masochistic abuse; or

"(E) lascivious exhibition of the genitals or pubic area of any person;

"(3) 'producing' means producing, directing, manufacturing, issuing, publishing, or advertising;

"(4) 'organization' means a person other than an individual;

"(5) 'visual depiction' includes undeveloped film and videotape;

"(6) 'computer' has the meaning given that term in Section 1030, of Title 18, USC; and

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained."

EFFECTIVE: 07/26/89

145-1.15 Section 2257. Record Keeping Requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which

"(1) contains one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce shall create and maintain individually identifiable records pertaining to every performer portrayed in such visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct -

"(1) ascertain, by examination of an identification

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 20

document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe, and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d) (1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e) (1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) for this section applies is an organization, the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful -

"(1) for any person to whom subsection (a) applies

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 21

to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make any false entry in or knowingly to fail to make an appropriate entry in any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which -

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce; which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section -

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 22

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both."

EFFECTIVE: 12/10/91

| 145-1.15.1 | Deleted |

EFFECTIVE: 12/10/91

145-1.16 Racketeer Influenced and Corrupt Organizations (RICO),
Title 18, USC, Section 1961

(1) The Comprehensive Crime Control Act of 1984 amended Title 18, USC, Section 1961(1)(A) and (B) to include "Dealing in Obscene Matter" as part of the RICO Statute.

| (2) | Deleted |

(3) A detailed discussion of the RICO Statute can be found in Part I, Section 183 of this manual.

EFFECTIVE: 12/10/91

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 23

145-2 POLICY

(1) Upon taking possession of evidence purported to be obscene, the local prosecuting jurisdiction should be immediately contacted for a prosecutive opinion. Personnel at FBIHQ, either in the investigative divisions or the Laboratory, are not to render an opinion as to whether an item is obscene.

(2) Deleted

(3) For instructions on submitting a case for latent fingerprint examination, see Part II, 15-2.1 of this manual.

(4) Obscene material is submitted to the Laboratory in order that it may be:

(a) Deleted

(b) forwarded to the Latent Fingerprint Section, Laboratory Division for latent fingerprint search/comparison

(c) Deleted

(5) All obscene material sent to FBIHQ should be forwarded under obscene cover and the address label on the outside of the package must be clearly marked for the attention of the FBI Laboratory. It should be accompanied by a cover|electronic communication|identifying the|evidence|and clearly stating the source of the material. If they are further needed by the submitting field office for use as evidence or as an investigative aid, such should be clearly indicated. In this instance, the|evidence|will be promptly returned to the field, together with a laboratory report. See MAOP, Part II, |2-4.4.11.)|

(6) Deleted

(7) Deleted

(8) Each obscene literature investigation possesses potential publicity value because of the very nature of the investigations. Every SAC should closely follow obscene matter investigations in order that consideration may be given to obtaining proper publicity in appropriate cases. Where it is contemplated that publicity will result from the Bureau's investigation of an obscene matter case, it is the responsibility of the SAC to make certain that FBIHQ is notified in advance of any contemplated arrest, arraignment,

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 24

or other development prior to the time that any publicity is released.

(9) During the course of the investigation of most obscene matter cases, it becomes necessary to interview the subject and obtain obscene evidence from him/her. Such obscene material is generally obtained in Bureau cases through one of the following methods:

(a) Voluntarily surrendering the evidence by the subject in conjunction with an interview and the obtaining of a signed statement

(b) Through a search of the subject or his/her premises incidental to an arrest

(c) Through a written waiver consenting to a voluntary search of the subject's premises

(d) Through the authority of a formal search warrant obtained from the USA

(10) At the time possession of obscene material is acquired from any source, a complete release should be obtained, if possible, authorizing the Bureau to destroy the material or dispose of it in any other appropriate manner.

(11) Section 1464 applies to all audio transmissions by means of radio communication which will include commercialized radio broadcasts, such as utilized by utility companies, taxicab companies, and the like.

(12) In *ROADEN V. KENTUCKY*, 413 U.S. (1973) the Supreme Court held that a film may not be seized without a prior judicial determination of obscenity. The Department advised it appears that unless it can be shown that evidence will be unavailable without immediate action to preserve it, a warrant must be served to justify seizure.

EFFECTIVE: 10/16/96

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 25

| 145-2.1 | Deleted |

EFFECTIVE: 03/21/95

145-3 JURISDICTION

(1) Since Title 18, USC, Sections 1462, 1465, 1466 or 1468, do not specifically designate the investigations of violations of these sections to any specific Federal investigative agency, such investigations properly come within the general investigative activity of this Bureau. The U.S. Postal Service investigates violations of Title 18, USC, Sections 1461 and 1463, which deal with the transmission of obscene matter through the mail. The jurisdiction of the U.S. Postal Service is derived from the fact that it has general investigative jurisdiction in all cases involving a use of the U.S. mails, and since these sections specifically deal with the transmission of obscene matter through the mails the U.S. Postal Service exercises jurisdiction. Title 19, USC, Section 1305, which is included in the Tariff Act of 1930, also prohibits the importation of obscene matter into the United States. Violations of Section 1305 are within the jurisdiction of Customs authorities.

(2) Although the Federal Communications Commission (FCC) has certain regulatory powers over its licensees, the Department has ruled that the investigative jurisdiction under Section 1464 was vested in the Bureau.

(3) FBI has primary investigative jurisdiction over Title 18, USC, Section 2251 (Sexual Exploitation of Children). The Department of Justice (DOJ) agreed with FBIHQ's observation regarding Title 18, USC, Section 2252 (Transportation of Child Pornography) in that investigative jurisdiction would be shared with the U.S. Postal Service depending upon whether the material in question is shipped in interstate or foreign commerce by computer or other means or is mailed. If the child pornography is transmitted in the U.S. mail, investigative jurisdiction would be with the Postal Service.

(4) If during the course of an investigation of a mailing offense by the Postal Service, pursuant to Title 18, USC, Section 2252 (Mailing of Child Pornography), evidence is developed of a violation of the Child Exploitation Statute (Title 18, USC, Section 2251), the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 26

Postal Service would acquire ancillary jurisdiction over Title 18, USC, Section 2251, provided the Postal Service keeps the FBI informed as to the status of the investigation.

EFFECTIVE: 12/10/91

145-4 INVESTIGATIVE PROCEDURE

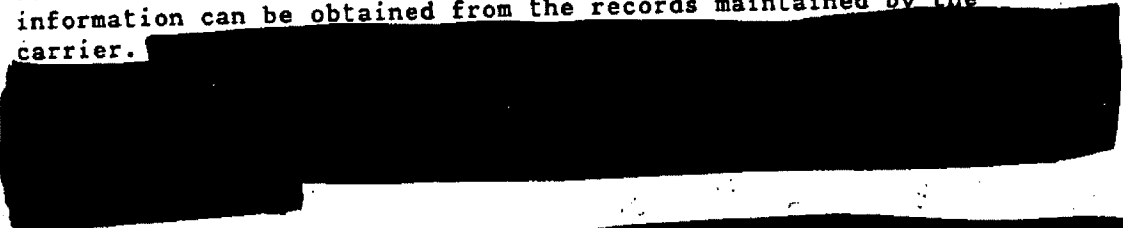
EFFECTIVE: 12/10/91

145-4.1 Section 1462. Importation or Transportation of Obscene Matters

(1) In order to prove an interstate transportation of the type prohibited by the statute, it is necessary to determine whether the transporting agency is an express company or other common carrier. Certain types of motor truck carriers are classed as common carriers. Accordingly, if the transportation occurs by this means, it is necessary to ascertain whether the trucking company is operating as a common carrier, thus bringing the transportation within the provisions of the statute.

(2) In addition to determining this factor, it is also necessary to ascertain the identity of all parties participating directly or indirectly in the transportation. This requires the identification of the consignor and consignee of the shipment. Such information can be obtained from the records maintained by the carrier.

b7D
b7E



(3)



Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 27

b2
b7E

[REDACTED]

(4) Peddlers of obscene material who have been arrested by local police departments should be questioned by Bureau representatives whenever possible in order to determine the identities of the manufacturers and principal distributors of salacious literature from whom the itinerant vendors obtain their supplies. Previous investigation has revealed that several large "rings" are engaged in large-scale distribution of obscene matter and the Bureau is greatly desirous of curtailing the interstate operations of these combines.

b2
b7E

(5) When an individual peddler of obscene material becomes known to the investigator in the field, consideration should be given to an endeavor to [REDACTED]

[REDACTED] every effort should be made to identify the manufacturers and printers of this material and no investigation should ever be concluded with the mere identification of a single peddler.

[REDACTED]

(6) To facilitate the identification of itinerant peddlers of obscene material, FBIHQ encourages the free exchange between field offices of photographs of peddlers and/or distributors of pornographic material who are known to operate on a rather extensive scale and are suspected of making deliveries or shipments interstate. Photographs of these individuals should be exhibited to witnesses and confidential informants where the identity of the purveyor of pornographic material has not been established.

(7) This section was amended, effective 8-28-58, in such a way that the violation is the use of an express company or other common carrier for transportation of the obscene material rather than the depositing of the matter for carriage. In this way the violation was made a continuing offense and prosecution can follow in any judicial district from, through, or into which the obscene matter is carried. The amendment to the statute did not affect investigative procedures set forth above but enhanced the possibilities for

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 28

prosecutions under this statute to stem the flow of obscene matter in interstate commerce. It is apparent that the facts may be presented for prosecutive opinion not only at the point from where the obscene material was shipped but at the place of address or delivery, or in any judicial district through which such matter passes.

EFFECTIVE: 12/10/91

145-4.2 Section 1464. Broadcasting Obscene Language

(1) Appropriate liaison should be effected with FCC field representatives in each field office so that violations reported to that agency under this section will be promptly referred to this Bureau for appropriate investigation. All cases under this section should be immediately investigated and promptly submitted to the appropriate USA for his/her consideration as to prosecution.

(2) The FCC has instructed its personnel as to the proper method of handling complaints of violations of Title 18, USC, Section 1464. These are as follows:

(a) In all instances based solely on complaints received from third parties (as contrasted with FCC personnel), the complaint should be promptly turned over to the nearest office of the FBI, together with all pertinent information relative to the alleged violation, including any intercepts submitted by the complainant.

1. In the more serious complaints, the FCC engineer in charge, on his/her own initiative and if warranted, may monitor the activities of the alleged violator inasmuch as the FCC may have an interest in taking possible administrative action (asking the violator to show cause as to why its license should be continued or possible revocation of the license) against the violator.

2. In this connection, the FCC will monitor the broadcast activities of the more serious violators at the request of the FBI. However, such requests should be kept to an absolute minimum.

(b) FCC field offices will refer complaints obtained as a result of monitoring radio broadcasts directly to FBI field offices, if in the opinion of FCC the complaint would warrant criminal prosecution. In less serious cases, FCC will admonish station operators by letter or will take action to have FCC licenses suspended

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 29

depending on the circumstances.

(c) If FCC field offices have knowledge that a local FBI office is investigating an alleged violation by a specific radio station and intercept a profane broadcast by the same station, regardless of its degree of seriousness, this information will be furnished to the interested local FBI office.

EFFECTIVE: 12/10/91

145-4.3 Section 1465. Transportation of Obscene Matters for Sale or Distribution

(1) The instructions set out above relating to Section 1462 generally apply to investigations under this section. It is to be noted that transportation under this section may be by any means.

b2
b7E
(2)

(3) In *Heller v. New York*, (413 U.S. (1973)), the Supreme Court held a seizure may be made pursuant to a warrant obtained ex parte after a determination of probable obscenity by a neutral magistrate. Following the seizure, however, a prompt judicial determination of the obscenity issued in an adversary proceeding is available at the request of any interested party. The case should be coordinated with the USA's Office to ensure prompt notification of all interested parties they have the right to request an adversary hearing of the court.

(4) The likelihood of the involvement of organized criminal elements should be considered when conducting investigations of these matters. Aggressive efforts should be made to determine the identity of those involved in such operations and the scope of their activities to develop prosecutable violations against these individuals.

(5) To prove a violation of Section 1465, it is no longer necessary to demonstrate that the obscene material travelled

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 30

interstate but only that a facility or means of interstate commerce is used for the purpose of transporting obscene material in interstate or foreign commerce. Therefore, the use of a facility of interstate commerce, such as a Federal interstate highway, to transport obscene material from a place of publication or production in one state to a place of distribution in the same state would violate this section.

EFFECTIVE: 12/10/91

145-4.4 Section 1466. Engaging in the Business of Selling or Transferring Obscene Matter

This section makes it unlawful for any person who is engaged in the business of selling or transferring obscene matter to knowingly receive or possess with intent to distribute any obscene matter which has been shipped or transported in interstate or foreign commerce. This section also creates a rebuttable presumption that the person who offers for sale, at one time, two or more copies of any obscene publication is engaged in the business of selling or transferring obscene matter.

EFFECTIVE: 12/10/91

145-4.5 Section 1467. Criminal Forfeiture

(1) This section is patterned in part after a similar forfeiture section concerning controlled substances and requires a person convicted of an offense in Chapter 71 of Title 18 (pertaining to obscenity) to forfeit such person's interest in (1) any obscene material and (2) any property consisting or traceable to proceeds obtained from the offense. Property used to commit or promote commission of the offense is to be forfeited if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense. Section 1467 requires the Government to prove "beyond a reasonable doubt" that the relevant category of property is subject to forfeiture.

(2) This forfeiture section is a very powerful tool which can be utilized to seize the property of a producer/distributor of adult obscenity, if after conviction on a Federal obscenity charge, the Government can show that the property was constituted or traceable

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 31

to proceeds of the offense.

(3) Every FBI ITOM investigation should not only focus on the elements of the criminal violation but also attempt to establish the property that the subject(s) have obtained from the proceeds of their obscenity trafficking. Upon conviction of an ITOM violation, the case Agent should ensure that the criminal forfeiture provisions of this section are instituted.

EFFECTIVE: 12/10/91

145-4.6 Section 1468. Distributing Obscene Material by Cable or Subscription Television

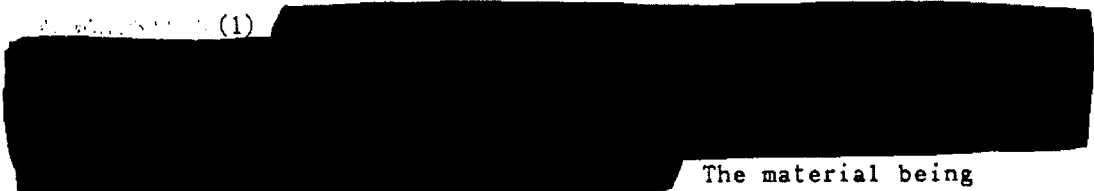
(1) This section supports the Cable Communications Policy Act of 1984, Section 639 of Title 47, which presently prohibits the transmission over any "cable system any matter which is obscene." This new section proscribes the utterance of obscene but not indecent matter by means of cable TV or subscription TV.


(2) Prior to proceeding with any investigation of this section, the material believed to be obscene should be presented to the appropriate Assistant United States Attorney for review and a preliminary opinion should be obtained as to whether the material meets the three-pronged obscenity test set forth in Miller vs. California.

EFFECTIVE: 12/10/91

145-4.7 Sections 2251, 2252, 2253, 2254, 2255, and 2257

Instructions set forth in Sections 1462, 1465, 1466, 1467 and 1468 generally apply to investigations under this section.

(1) 

 The material being distributed by these individuals is particularly offensive, and Congress, in enacting the Child Protection Act of 1984 (Public Law

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 32

98-292), has evidenced, as noted above, a particular concern with this problem.

b2
b7E
(2)



(a)



(b)



(3) Investigations have shown that many individuals who import or consensually exchange child pornography for their own collections do so repeatedly and with full knowledge that it is illegal to do so. In addition, many of these individuals regularly engage in sexual child abuse. Many of these same people are also involved in occupations which bring them into frequent contact with children. Extreme caution should be exercised in conducting an investigation against a suspected child molester, and at no time should a child be allowed to enter a location if it is believed that the child may be molested.

(4) Field offices are encouraged to coordinate all SEOC investigations with local law enforcement, U.S. Customs Service and the U.S. Postal Inspectors, as necessary and appropriate.

(5) Deleted

(6) Deleted

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 33

EFFECTIVE: 12/10/91

145-4.8 Investigative and Prosecutive Priority of Sexual
Exploitation of Children Statute

(1) The DOJ has advised the USA's Office that prosecutive priority should be given to matters involving violations of Title 18, USC, Sections 2251-2257. FBI priority should continue to be given to any investigative matters involving such use of children.

(2) If there are any indications that child abuse is present, the FBI should ensure that the matter is called to the attention of local investigators and prosecutors.

(3) Generally, the comments and guidelines furnished to the USA's Offices pertain to the below discussed areas and affect investigations conducted by the Federal agencies who have an investigative interest in these matters.

(4) Prosecutive priority should be given to cases involving large-scale distributors, multistate operations, and cases in which there is evidence of involvement by known organized crime figures. However, prosecution of cases involving relatively small distributors not meeting the above criteria, particularly distributors of especially offensive material or who are the subjects of numerous citizen complaints, can have a deterrent effect and should dispel any notion that distributors are insulated from prosecution if their operations fail to exceed a predetermined size, or if they fragment their activity into small-scale operations. Therefore, the occasional prosecution of such distributors may be appropriate.

(5) Special priority should be given to cases involving the use of minors engaging in sexually explicit conduct for the purpose of producing any visual depiction of such conduct or cases involving the mailing or interstate or foreign shipment of material depicting minors engaging in sexually explicit conduct (Title 18, USC, Sections 2251-2257).

(6) Because of the nature of the violators and the difficulties frequently encountered by local prosecutors, serious consideration should be given to Federal prosecution of a noncommercial child pornography case if one or a combination of the following factors exists:

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 34

at one time

- (a) More than three seizures over the past year;
- (b) A large quantity of child pornography imported;
- (c) An arrest history of crimes against children;
- (d) Known membership in a family sex group;
- (e) Employment involving children;
- (f) Photographs depicting the recipient involved in the sexual activity with children;
- (g) Correspondence with other pedophiles or undercover Agents relating to sexual involvement with children;
- (h) Distribution of material.

Each case should be examined individually by the USA's Office to see if prosecution is warranted.

EFFECTIVE: 12/10/91

145-4.9 Contacts with U.S. Customs Service Relative to Sexual Exploitation of Children Statute

(1) In addition to the FBI and U.S. Postal Inspection Service, the U.S. Customs Service has investigative interest and jurisdiction in the importation of pornographic material into the United States. The U.S. Customs Service is able to seek forfeiture of the pornographic materials that are exported or imported under Title 19, USC, Section 1305. The U.S. Customs Service Child Pornography and Protection Unit located at their Washington, D.C., Headquarters maintains a "seizure list" of suspected recipients of imported and prohibited pornographic material and of the foreign shippers of this material. In most instances, the materials seized by the U.S. Customs Service are held until forfeiture proceedings are completed and thereafter the materials are destroyed.

(2) Experience to date has revealed that a large portion of commercial child pornography is produced in either Europe or third world countries and is then exported to the United States where it is

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 35

frequently duplicated. When materials seized by U.S. Customs Service are destroyed, valuable intelligence data for technical laboratory comparisons is lost. The U.S. Customs Service should be contacted periodically through liaison in your local field office to see if the material can be provided to the FBI and a court order obtained indicating that the FBI Laboratory will destroy the material after its usefulness is completed.

(3) Deleted

refer 

EFFECTIVE: 03/21/95

145-5

POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY
STATUTES

When conducting Sexual Exploitation of Children investigations, Agents should be alert to facts indicating that the victims of such schemes may have been held or sold into conditions of involuntary servitude or slavery through use of force, threat of force, or coercion. Such situations may constitute violations of the Involuntary Servitude and Slavery and related statutes. Full details of these laws, as well as FBI policy and procedure, are set forth in Part I, Section 50 of this manual.

EFFECTIVE: 12/10/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 36

145-6 VENUE

(1) Section 1462 - Under the statute as amended 8-28-58, where obscene matter is brought into the United States, or any place subject to the jurisdiction thereof, venue will lie for this offense not only at the port of entry but also in each successive state or territory into which the importer carried the obscene matter. Where an express company or other common carrier has been used for the transportation of the obscene matter in interstate or foreign commerce in violation of the statute, venue will lie at the place from which the prohibited matter is sent, at the place of address or delivery, or in any judicial district through which such matter passes.

(2) Section 1464 - In the judicial district in which the offense is committed

(3) Sections 1465 and 1466 - In any district from, through, or into which the obscene material has been transported (Title 18, USC, Section 3237)

(4) Section 1468 - In any district in which the obscene matter was broadcast from or in which it was received

(5) Sections 2251, 2252, 2253, 2254, 2255, and 2257 - With respect to venue in these matters, DOJ has indicated that cases under the obscenity statutes may be prosecuted in the district where the material is mailed or deposited with a facility of interstate commerce, the district of receipt or any intermediate district through which the material passes (see Title 18, USC, Section 3237). In cases where there are complaints by postal patrons about the unsolicited receipt of obscene material, the district of receipt would appear to be the appropriate choice of venue. On the other hand, in cases involving numerous mailings by a distributor into various districts, the district of origination may be the appropriate venue for the case. If a case is to be based solely upon test purchases by investigators, it will be venued in the district of origination of the obscene mailing rather than some other district, unless the Government has some information showing that there were prior mailings into the recipient district by the individual involved. Prosecutions will not be brought in jurisdictions through which obscene material passes in transit except with the concurrence of the General Litigation and Legal Advice Section, DOJ.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 37

EFFECTIVE: 12/10/91

145-7 CHILD EXPLOITATION AND OBSCENITY SECTION (CEOS),
DEPARTMENT OF JUSTICE

(1) CEOS consists of Special Attorneys assigned to assist in the prosecution of adult obscenity and child pornography cases.

(2) The Violent Crimes/Fugitive Unit has primary liaison responsibilities with CEOS. The Violent Crimes/Fugitive Unit should be immediately advised if CEOS representatives directly contact a field office. All contacts with CEOS by FBI Agent personnel should be directed through the Violent Crimes/Fugitive Unit.

EFFECTIVE: 07/17/95

145-8 REPORTING PROCEDURES

(1) All offices should advise FBIHQ, CID, Violent Crimes/Fugitive Unit whenever a child pornography case is opened. Thereafter, the Office of Origin (OO) should submit a detailed summary Letterhead Memorandum (LHM) of investigation conducted every six months and when the case is closed.

(2) In all other ITOM cases the OO should submit a summary communication to the Violent Crimes/Fugitive Unit after the case has been opened a total of 120 days. Thereafter, a detailed summary LHM of investigation conducted should be submitted by the OO every six months and when the case is closed.

(3) Any office which seizes any child pornography or adult obscenity which is unique or might be of training value should contact the Critical Incident Response Group's Child Abduction and Serial Killer Unit, prior to destroying the material.

EFFECTIVE: 07/17/95

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 38

145-9 CHARACTER - INTERSTATE TRANSPORTATION OF OBSCENE MATTER;
SEXUAL EXPLOITATION OF CHILDREN; BROADCASTING OBSCENE
LANGUAGE

EFFECTIVE: 12/10/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 1

SECTION 146. INTERSTATE TRANSPORTATION OF PRISON-MADE GOODS

146-1 STATUTES

Title 18, USC, Sections 1761 and 1762.

EFFECTIVE: 10/23/86

146-1.1 Section 1761. Transportation or Importation

"(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(b) This chapter shall not apply to agricultural commodities or parts or the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution or use by the Federal Government, or by the District of Columbia, or any State or Political subdivision of a State.

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than twenty pilot projects designated by the Director of the Bureau of Justice Assistance and who-

"(1) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

"(A) taxes (Federal, State, local);

"(B) reasonable charges for room and board as

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 2

determined by regulations which shall be issued by the Chief State correctional officer;

"(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

"(D) contributions to any fund established by law to compensate the victims of crime of not more than 20 per centum but not less than 5 per centum of gross wages;

"(2) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation. However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary;

"(3) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.

"(d) Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code."

EFFECTIVE: 10/23/86

146-1.2 Section 1762. Marking Packages

"(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 3

outside of such package.

"(b) Whoever violates this section shall be fined not more than \$1,000, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law."

EFFECTIVE: 06/18/87

146-2 POLICY

(1) Contact should be maintained with reliable prison authorities, wardens of individual prisons, interstate shippers, and other reliable sources in order that each field office will be currently advised of violations of the interstate transportation of prison-made goods statutes. Upon the receipt of complaints involving a violation, the appropriate investigation should be immediately undertaken. The USA should be contacted early during the investigation for an opinion as to prosecution and the extent and scope of the investigation desired.

(2) The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 1762. The FORFEITURE AND ABANDONED PROPERTY MANUAL contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

EFFECTIVE: 06/18/87

146-3 VENUE

In the district from which the prison-made goods are transported or the district through or into which they are carried (Title 18, USC, Section 3237).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 4

EFFECTIVE: 06/18/87

146-4 CHARACTER - INTERSTATE TRANSPORTATION OF PRISON-MADE GOODS

EFFECTIVE: 06/18/87

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 147 - 1

SECTION 147. FRAUD AGAINST THE GOVERNMENT - DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT | (SEE MIOG,
PART I, SECTION 46.) |

| 147-1 | BACKGROUND

| The 147 classification was eliminated and reclassified in
Fiscal Year 1996 as 46B (Fraud Against the Government - Housing and
Urban Development). See MIOG, Part I, Section 46. |

EFFECTIVE: 07/31/97

| 147-1.1 | Deleted |

EFFECTIVE: 07/31/97

| 147-2 | DELETED |

EFFECTIVE: 07/31/97

| 147-3 | DELETED |

EFFECTIVE: 07/31/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 147 - 2

| 147-4 | DELETED |

EFFECTIVE: 07/31/97

| 147-5 | DELETED |

EFFECTIVE: 07/31/97

| 147-6 | DELETED |

EFFECTIVE: 07/31/97

| 147-7 | DELETED |

EFFECTIVE: 07/31/97

| 147-8 | DELETED |

EFFECTIVE: 07/31/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 147 - 3

| 147-9 | DELETED |

EFFECTIVE: 07/31/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 1

SECTION 148. INTERSTATE TRANSPORTATION OF FIREWORKS

148-1 STATUTE

Title 18, USC, Section 836

EFFECTIVE: 11/08/78

148-1.1 Elements

"Whoever, otherwise than in the course of continuous interstate transportation through any State, transports fireworks into any State, or delivers them for transportation into any State, or attempts so to do, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such State specifically prohibiting or regulating the use of fireworks, shall"

EFFECTIVE: 11/08/78

148-1.1.1 Other Provisions

(1) "This section shall not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a State for the use of Federal agencies in the carrying out or the furtherance of their operations.

(2) "In the enforcement of this section, the definitions of fireworks contained in the laws of the respective States shall be applied.

(3) "As used in this section, the term 'State' includes the several States, Territories, and possessions of the United States, and the District of Columbia."

(4) Section 3 of the act provides that Section 836 shall not be effective with respect to --

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 2

(a) "(1) the transportation of fireworks into any State or Territory for use solely for agricultural purposes,

(b) "(2) the delivery of fireworks for transportation into any State or Territory for use solely for agricultural purposes, or

(c) "(3) any attempt to engage in any such transportation or delivery for use solely for agricultural purposes, until sixty days have elapsed after the commencement of the next regular session of the legislature of such State or Territory which begins after the date of enactment of this Act."

EFFECTIVE: 11/08/78

148-1.1.2 Policy

(1) Note that Title 18, USC, Section 836, states the laws dealing with fireworks of the respective states shall be applied in the enforcement of the statute. In each field office there is a digest of the state laws governing the sale, use, or prohibition of fireworks in the states covered by that division for use in evaluating complaints alleging violations of the ITF statute. Each field office is required to maintain liaison with the appropriate state attorney general's office to be advised of any change in the state law relative to fireworks since these state laws are an integral part of Title 18, USC, Section 836. Upon receipt of an allegation, immediately determine if the fireworks are such that are by state law prohibited or regulated in the state involved. If the complaint involves fireworks alleged to be used solely for agricultural purposes, determine whether the state law exempts fireworks used for such purposes. If an investigative report is submitted it should, in all instances, identify and cite the state statute prohibiting or regulating the use of fireworks that is the basis of this Bureau's investigation.

(2) Upon receipt of information indicating a violation of this statute, sufficient investigation should be conducted to establish the facts. The matter should then be referred to the appropriate USA for a prosecutive opinion prior to conducting extensive investigation. The opinion of the USA relative to interpretation of state laws governing use of fireworks as it applies to Title 18, USC, Section 836, should be secured in each instance.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 3

EFFECTIVE: 11/08/78

||148-2 VENUE|

Venue lies in the district from which or into which the interstate shipment is made. The Department has advised that, as a general rule, prosecution should be initiated in the state and district into which the shipment is made.

EFFECTIVE: 11/08/78

||148-3 REPORT WRITING RULES

(1) Forward to FBIHQ copy of any prosecutive summary report prepared in this classification of investigation for the USA's Office, utilizing current Bureau guidelines for the preparation of such reports.

(2) No report need be forwarded under any other circumstances unless it is determined to be the most logical means to disseminate the results of investigation accumulated, or when it is decided that a report is the best means to disseminate such results to other Federal agencies through FBIHQ rather than via an LHM.

EFFECTIVE: 11/08/78

||148-4| PENALTY

A fine of not more than \$1,000 or imprisonment for not more than one year, or both.

EFFECTIVE: 11/08/78

||148-5| CHARACTER - INTERSTATE TRANSPORTATION OF FIREWORKS.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 4

EFFECTIVE: 11/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 1

SECTION 149. DESTRUCTION OF AIRCRAFT OR MOTOR VEHICLES

| 149-1 STATUTES | (See MIOG, Part I, 160-1.1.1(1); II, 15-8.5.) |
| Title 18, USC, Sections 31 through | 37 |

EFFECTIVE: 01/08/96

149-1.1 Elements

EFFECTIVE: 07/11/85

149-1.1.1 Destruction of Aircraft or Aircraft Facilities (Section 32)

| "(a) Whoever willfully-

"(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

"(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

"(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

"(4) with the intent to damage, destroy, or disable

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 2

any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance loading, unloading, or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

"(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

"(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

"(b) Whoever willfully-

"(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

"(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

"(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

"(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

"(c) Whoever willfully imparts or conveys any threat to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 3

do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution...."

EFFECTIVE: 07/11/85

149-1.1.2 Destruction of Motor Vehicles or Motor Vehicle Facilities
(Section 33)

"Whoever willfully, with intent to endanger the safety of any person on board or anyone who he believes will board the same, or with a reckless disregard for the safety of human life, damages, disables, destroys, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to, any motor vehicle which is used, operated, or employed in interstate or foreign commerce, or its cargo or material used or intended to be used in connection with its operation; or

"Whoever willfully, with like intent, damages, disables, destroys, sets fire to, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, motor vehicles engaged in interstate or foreign commerce or otherwise makes or causes such property to be made unworkable, unusable, or hazardous to work or use; or

"Whoever, with like intent, willfully disables or incapacitates any driver or person employed in connection with the operation or maintenance of the motor vehicle, or in any way lessens the ability of such person to perform his duties as such...."

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 4

149-1.1.3 Imparting or Conveying False Information (Section 35)

"(a) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 97 (Section 1991 - Entering Train to Commit Crime, and Section 1992, Federal Train Wreck Statute) or chapter 111 (Sections 2271 through 2279, relating to destruction of water-borne vessels including military vessels) of this title."

"(b) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 97 or chapter 111 of this title," specific sections as noted in (a) above.

EFFECTIVE: 07/11/85

149-1.1.4 Violence at International Airports (Section 37)

"(a) Offense. - A person who unlawfully and intentionally, using any device, substance, or weapon-

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in Section 1365 of the U.S.C.) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,...."

"(b) Jurisdiction - There is jurisdiction over the prohibited activity in subsection (a) if-

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 5

the United States and the offender is later found in the United States.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term "labor dispute" has the meaning set forth in section 2(c) of the Norris-La Guardia Act, as amended (29 U.S.C. 113(c))."

EFFECTIVE: 01/08/96

||149-1.1.5| Definitions (Section 31)|(See MIOG, Part I, 15-4(10),
26-4.6(1).)|

"When used in this chapter the term 'aircraft engine,' 'air navigation facility,' 'appliance,' 'civil aircraft,' 'foreign air commerce,' 'interstate air commerce,' 'landing area,' 'overseas air commerce,' 'propeller,' 'spare part,' and 'special aircraft jurisdiction of the United States,' shall have the meaning ascribed to those terms in sections 40102(a) and 46501 of title 49."

"'Motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property; or property or cargo;

"'Destructive substance' means any explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature;

"'Used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"'In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 6

case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property on board; and

"'In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight."

Paragraph one above makes reference to the Federal Aviation Act of 1958. Pertinent definitions set forth in the Federal Aviation Act are as follows:

"'Aircraft engine' means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

"'Air navigation facility' means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

"'Appliances' means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

"'Civil aircraft' means any aircraft other than a public aircraft.

"'Public aircraft' means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying person or property for commercial purposes.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 7

"'Interstate air commerce,' 'overseas air commerce,' and 'foreign air commerce,' respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively -

"(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the air space over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

"(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

"(c) a place in the United States and any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"'Landing area' means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

"'Propeller' includes all parts, appurtenances, and accessories thereof.

"'Spare parts' are all parts, other than aircraft engines or propellers, maintained for installation or use in an aircraft, engine, or propeller, but which, at the time, are not yet installed therein or attached thereto."

EFFECTIVE: 01/08/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 8

149-2 OTHER PROVISIONS

[Venue is in district where act committed or, in case of continuing transportation of a destructive device in interstate commerce, may be any district where transportation continued. Venue under Title 18, USC, Sections 32(b) and (c) shall be in the district in which the offender(s) is arrested or first brought; but if such offender(s) is not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender(s), or if no such residence is known, the indictment or information may be filed in the District of Columbia (Title 18, USC, Section 3238). Prosecution under Title 18, USC, Section 35(a), which contains civil penalties, should be initiated in the district of the offender's residence and not in the district in which the offense occurred. Prosecution under Section 35(b) will be in the district in which the offense occurred.]

EFFECTIVE: 07/11/85

149-3 POLICY

(1) Accept for investigation all cases involving violations of Title 18, USC, Sections 32(a) (c), 33, 35, and 37 (the DAMV Statute). In conjunction with requests for investigations of violations of Section 32(b) (non-United States aircraft outside of the United States), Bureau authority must be obtained prior to instituting any inquiry. In this regard, any such requests received directly by a field office should be immediately submitted, with complete background and opinion/recommendation of an Assistant United States Attorney (AUSA), to FBI Headquarters.

(2) Technically, a bomb threat (or actual device) aboard an aircraft is a violation of Title 18, USC, Section 35 (DAMV) and Section 37 (Violence at International Airports), as well as Title 49, USC, Section 46507. However, as a matter of policy, all false reports (or actual instances) of a bomb aboard an aircraft unrelated to an aircraft hijacking incident should be investigated and reported under the DAMV (149) classification. Any incidents of this nature involving an aircraft hijacking incident should be carried under the Crime Aboard Aircraft (164) classification. The foregoing is to create uniformity in the Time Utilization and Recordkeeping (TURK) records, as well as to maintain program segregation.

(3) All violations relating to aircraft are to be

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 9

reported as detailed below depending on the magnitude of the incident.

(a) Immediately advise FBIHQ by telephone or teletype, depending upon the exigency of the circumstances, of all cases where there is loss of life, danger to public safety, or widespread public interest. Each complaint should receive prompt and expeditious investigative attention.

(b) In all violations, a succinct LHM (original and four copies) should be submitted to FBIHQ by FD-365 within ten working days of receipt of initial complaint. (See MAOP, Part II, 10-4.3, & Correspondence Guide-Field, 2-5.5.11.) Upon receipt of the LHM, FBIHQ will disseminate to the following agencies:

1. Director Civil Aviation Security,
ACS-1
Federal Aviation Administration
Room 319
800 Independence Avenue, Southwest
Washington, D.C. 20591
2. United States Secret Service
Intelligence Division
1800 G Street, Northwest
Washington, D.C. 20223

(c) The appropriate regional office of FAA should be promptly advised upon receipt of all complaints with close liaison being maintained during the course of each investigation.

(d) In all cases, the field office is to disseminate additional copies of the LHM within ten working days to the nearest Civil Aviation Security Field Office (CASFO), FAA Regional Office, United States Secret Service Field Office, and to the FBI field office which covers the subject's residence. Other interested agencies, such as the National Transportation Safety Board (NTSB), Office of Special Investigations, etc., should likewise be advised locally when appropriate. Depending upon the exigency of the matter, immediate notification to the above agencies may be necessary.

(e) In those cases wherein the USA's office declines prosecution, defers prosecution to state or local authorities or refers the matter to FAA for civil enforcement; or wherein it is known that state or local prosecution is declined upon USA deferral, the initial LHM should so indicate. One copy of this LHM should be directed to the USA confirming the USA's opinion in lieu of a separate

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 10

confirmation letter.

(f) In all cases, dissemination is to be indicated on the FD-365 which transmits the LHM to FBIHQ with the LHM identifying those individuals and agencies already notified of the violation.

(g) To assist in gathering the information, the optional administrative Form FD-653, Motor Vehicle Inspection Inventory Record, may be used and retained in the 1-A exhibit envelope (FD-340 and/or FD-340b). (See MIOG, Part I, 26-2.5(2)(c), 26-2.7(2).)

(h) When additional investigation is required, record results so they may be later incorporated into the prosecutive report. Four copies of these should be submitted to FBIHQ. In each instance, reports should set forth full facts including field office file numbers, complete descriptive and background data concerning each subject (best descriptive information available of an unknown subject should also be set forth), data concerning mental stability, the air carrier, flight number, origin and destination, time and place of offense, number of passengers and crew, weapons used, type of aircraft involved, and any injuries.

(i) In order that the FBIHQ substantive case file may reflect the final outcome of each violation, the following FBIHQ notification policy should be followed by the office of origin.

1. In those cases wherein the initial LHM submitted to FBIHQ by FD-365 reflects the final outcome, no further notification is necessary.

2. Deleted

3. In all other cases, including those cases in which a USA declination or deferral was rendered subsequent to the initial LHM/FD-365 submission and those unsolved cases closed under SAC authority, a closing|electronic communication|should be directed to FBIHQ which clearly sets forth the basis for closing.

(4) It is incumbent upon SAC to have appropriate arrangements with transportation facilities and law enforcement officials to make certain all incidents are promptly reported so that immediate investigation may be instituted and Bureau will have effective coverage over this violation.

(5) In case of report that a bomb has been placed on

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 11

aircraft or vehicle, or that similar attempt will be made to destroy aircraft or vehicle, immediately notify Federal Aviation Administration and transportation facility involved in case of aircraft; local authorities and transportation facility involved in case of motor vehicle. Protection of aircraft or vehicle and passengers is responsibility of transportation company and local authorities. Decisions as to grounding aircraft or stopping vehicles and making searches will not be made by FBI. Agents, with the exception of Laboratory explosives specialists and active FBI bomb technicians, are not to participate in searches for suspected bombs on aircraft or vehicles. Render safe responsibilities for located bomb devices rest with the public safety bomb squad or military Explosive Ordnance Disposal (EOD) unit.

(6) Aircraft disasters involving commercial aircraft will be the subject of inquiry by NTSB. In view of the importance of major commercial aircraft disasters and their resultant tragic loss of life, it is necessary that the Bureau be in a position to investigate any violations arising from such disasters efficiently and aggressively. Therefore, the SAC should immediately proceed to disaster scene, establish liaison with NTSB, personally take command in relation to Bureau's interests, and develop any information indicating a federal violation within Bureau's jurisdiction. FBIHQ expects the SAC to personally take command in these instances; however, necessary action cannot be delayed due to SAC's absence.

(7) Department has stated that mere statement that an aircraft is going to crash, even if false, is not a violation in the absence of any false information regarding one of the specific acts enumerated in the law.

(8) Public Law 87-810 amended Section 1105 of Federal Aviation Act of 1958, as amended (Title 49, USC, Section 1505), to provide NTSB authority to avail itself of assistance of FBI or any investigatory or intelligence agency of the United States with respect to an investigation of the activities of any person in connection with a civil aircraft accident. Applicable even though no violation indicated. Requests from NTSB under Section 1105 should be referred to FBIHQ for approval prior to conducting any investigation.

EFFECTIVE: 12/23/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 12

149-4. INVESTIGATIVE PROCEDURES

EFFECTIVE: 02/15/82

149-4.1 Aircraft Disasters

EFFECTIVE: 02/15/82

149-4.1.1 Major Commercial Aircraft Disaster - SAC Responsibility
| (See MIOG, Part II, 15-8.5.) |

(1) Immediately advise FBIHQ by telephone and if appropriate request assistance of FBI Laboratory and/or FBI Disaster Squad.

(2) Immediately thereafter proceed to the scene of the disaster in order to develop any information indicating a federal violation within the Bureau's jurisdiction. To this end SAC will:

(a) Establish close liaison with local law enforcement officers and NTSB authorities in order to ensure that evidence is properly identified and protected. This will materially aid those responsible for examining the evidence among whom will be a representative of the Bureau Laboratory.

(b) Closely follow investigation by NTSB authorities to ensure that full scale Bureau investigation is initiated immediately upon receipt of indication that a violation has occurred.

(c) Arrange to obtain a passenger manifest and initiate whatever inquiries are necessary to determine sufficient background data concerning each passenger so that an immediate and efficient check may be made of FBIHQ indices and the indices of the field office covering the residence of the passenger. This action will assist the Bureau Disaster Squad in its efforts to positively identify passengers killed or injured in the crash, and develop at the earliest possible moment pertinent data in Bureau files indicating the possibility of an actual violation.

(d) Personally direct appropriate investigative activity of any matters within our jurisdiction to ensure same is handled expeditiously.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 13

(e) Afford on-the-spot direction to logical immediate investigative activity pertinent to determining whether a violation within Bureau's jurisdiction has occurred. Consideration should be given to preparation of appropriate photographs and sketches of the scene of the crash and photographs of pertinent portions of the aircraft and to interviews with survivors, eyewitnesses, and individuals who heard the plane before the crash.

(f) Media inquiries should be handled by the SAC by indicating that he/she has arrived at the scene to develop any information indicating a federal violation and that he/she is extending the cooperative facilities of the FBI Laboratory.

EFFECTIVE: 04/08/96

149-4.1.2 Major Commercial Aircraft Disaster - FBI Laboratory Action

- (1) Accompany Bureau's disaster squad to scene.
- (2) Effect technical liaison with interested Government representatives.
- (3) Render all possible assistance on the scene to such authorities and where desired arrange for the use of the facilities of the FBI Laboratory.
- (4) In relation to the Bureau's interests, evaluate technical problems associated with Laboratory matters and evidence at the scene.
- (5) Keep the SAC advised of pertinent developments in the technical investigation so that if a violation is indicated investigation may be initiated at the earliest possible moment.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 14

149-4.2 Investigation of a Commercial Aircraft Crash

The following full investigative procedure is to be utilized when a preliminary inquiry indicates a Federal violation in any commercial aircraft crash covered by the statute, including those not considered major disasters:

- (1) Thorough crime scene search.
- (2) Insure evidence properly identified and protected.
- (3) Make any necessary photographs and sketches showing:
 - (a) Entire crash scene and close-up views from various angles
 - (b) Photographs of parts torn loose
 - (c) Photographs of instruments and levers in cockpit
 - (d) Photographs of marks made by aircraft on ground
- (4) In connection with establishing cause of crash, interview:
 - (a) crew members and other survivors
 - (b) Eyewitnesses
 - (c) Persons who heard the plane before the crash
 - (d) NTSB or other radio operators in contact with plane before crash
 - (e) Ground crew members and mechanics who serviced the plane
- (5) In connection with establishing a possible motive, appropriate investigation should be conducted with regard to:
 - (a) Crew members (complete background, including mental and physical condition)
 - (b) Passengers (background, business connections, personal contacts, insurance data)

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 15

(c) Source and content of all cargo (mail, express, freight, baggage)

(6) Liaison should be maintained with local authorities who would have concurrent jurisdiction where death or injury occurred.

(7) Liaison should be established with coroner who will certify cause of death and can testify as to cause of death in later court proceedings.

(8) Bear in mind that capital offense may be involved and that evidence will be subject to close scrutiny; therefore, chain of evidence must be carefully preserved.

(9) In investigating all types of incidents, be alert to possible use of FBI Laboratory facilities in establishing exact method and cause of explosions, fires, etc.

EFFECTIVE: 01/31/78

149-4.3 Motor Vehicle Incidents

(1) Complete, thorough crime scene search should be conducted immediately.

(2) Make photographs and sketches of scene.

(3) Interview local authorities who may have investigated incident.

(4) Conduct thorough neighborhood investigation where applicable.

(5) Consider possibility of disgruntled employees or labor disputes.

(6) In case of actual destruction through bomb or similar device of bus or other commercial passenger vehicle, check background of passengers for motive as outlined above.

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 16

149-4.4 Incidents Involving False Reports (Title 18, USC, Section 35 (b))

(1) Many such reports are received through anonymous telephone calls. Each field office should consider opening a control file setting forth information concerning individuals who are known to have made "nuisance calls."

(2) [REDACTED]

b2
b7E
(3) When call is believed to have originated from juvenile, attempt to obtain information through cooperative school officials and other juvenile authorities.

(4) Immediately conduct investigation at the airport if caller alleges a bomb is on a plane, preferably while plane is still on ground; attempt to locate possible suspects who may have come to the airport to observe the confusion created by the call.

(5) Interview airport personnel concerning any person, particularly juveniles, loitering in the area for no apparent reason.

(6) Consider checking with police department and telephone company for person known to have made "crank" telephone calls.

(7) [REDACTED]

(8) When there is an indication that the caller may have been intoxicated, make an immediate check in bars and cafes near the airport.

(9) Immediately conduct any other logical investigation depending on the circumstances under which false report was received.

EFFECTIVE: 07/11/85

149-5

PROSECUTION

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 17

EFFECTIVE: 07/11/85

| 149-5.1 Title 18, U.S. Code, Sections 32(a) (b) | (c), 33 and 37 |

(1) In cases in which jurisdiction is questionable, present to USA early in investigation.

(2) Under Section 32(b), Bureau authority must be obtained before instituting an investigation. All requests for investigation under this subsection should be submitted to FBI Headquarters and this submission should contain the USA's opinion with respect to the prosecutive potential of the matter.

(3) Under Section 33, the phrase "property or cargo" was added to Title 18, USC, Section 31 to cover trucks. As a result, a person who destroys or damages a truck with intent to endanger the driver or another person on board, or with reckless disregard for their safety, can now be prosecuted under this section.

Previously, this section applied only to motor vehicles conveying passengers--typically buses.

(4) For policy considerations, DOJ has advised that the term "motor vehicle" is not intended to "federalize" every attack upon a truck which endangers persons on board. Damaging a truck with the intent of injuring the driver would violate a number of state laws, and it is the intent of the Congress that state authorities continue to play the principal role in this area. Offices should reach understandings with local and state authorities, through their law enforcement coordinating committees, reflecting the limited nature of the federal role. | (See MIOG, Part I, 15-4, 26-4.6.) |

EFFECTIVE: 01/08/96

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 18

149-5.2 Title 18, U.S. Code, Section 35 (a) and (b)

| (1) | As soon as practicable, full facts should be presented to the USA in the district in which the offense occurs in order to determine if there exists a possible violation of Section 35 (b) (criminal). Should the USA determine that the offense does not constitute a violation punishable by criminal penalties, a prosecutive report should be submitted, a copy of which should be furnished the USA's Office covering the district in which the offense was committed and copies forwarded to the field office responsible for the area in which the offender resides with a copy designated for the USA in that area.

| (2) | The Department has advised that in those instances in which civil penalties are applicable, Section 35 (a), prosecution should be initiated in the district of the offender's residence, not in the district in which the offense occurred. Further, the Criminal Division has advised that civil complaints and summonses should be utilized in civil actions under Title 18, USC, Section 35 (a), rather than informations and warrants of arrests as employed in criminal cases. Should the USA in the district of residence decide civil sanctions are warranted, it will be his/her responsibility to initiate same under established Department procedures. No requests by USAs for investigation relative to civil offenses shall be accepted by field offices without prior FBIHQ authority.

EFFECTIVE: 07/11/85

149-5.3 Prosecution Under the Hobbs Act

Consideration should also be given to use of the Hobbs Act as a vehicle of prosecution where an extortionate demand is made directly or indirectly upon a commercial air carrier which would obstruct, delay, or affect commerce. The Department has instructed all USAs that when such an extortionate situation is encountered wherein it may be desirable to charge a violation under the Hobbs Act, the Department must be consulted.

EFFECTIVE: 07/11/85

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 19

149-6 PENALTIES

(1) Section 32(a)(b) - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 20 years, or both.

(2) Section 32(c) - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 5 years, or both.

(3) Section 33 - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 20 years, or both.

(4) Section 34 - Penalty when death results - "whoever is convicted of any crime prohibited by this chapter, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life."

(5) Section 35(a) - Civil penalty of not more than \$1,000 recoverable in a civil action brought in the name of the United States.

(6) Section 35(b) - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 5 years, or both.

(7) Section 37 - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 20 years, or both; and if the death of any person results from conduct by section 37(a), shall be punished by death or imprisoned for any term of years or for life.

EFFECTIVE: 01/08/96

149-7 CHARACTER - DESTRUCTION OF AIRCRAFT OR MOTOR VEHICLES

Where incident is potential violation of Section 35, use above character followed by (False Report).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 20

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 151 - 1

SECTION 151. BACKGROUND INVESTIGATION - OFFICE OF PERSONNEL
MANAGEMENT (OPM)

151-1 BACKGROUND INVESTIGATION - OFFICE OF PERSONNEL MANAGEMENT
(OPM)

This classification was deleted in Fiscal Year 1990 due to the similarities between it and classification 140. Therefore, cases referred to the FBI from OPM regarding an applicant's loyalty to the Government should be handled under classification 140, "Office of Personnel Management - Referral; - Employees; - Other." See Part I, Section 140 of this manual, for appropriate instructions.

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I.

PAGE 152 - 1

SECTION 152. SWITCHBLADE KNIFE ACT

152-1 STATUTES

Title 15, USC, Sections 1241, 1242, 1243 and 1244.

EFFECTIVE: 01/31/78

152-1.1 Section 1241. Definitions

"The term 'interstate commerce' means commerce between any State, Territory, possession of the United States, or the District of Columbia, and any place outside thereof.

"The term 'switchblade knife' means any knife having a blade which opens automatically--

"by hand pressure applied to a button or other device in the handle of the knife, or

"by operation of inertia, gravity, or both."

EFFECTIVE: 01/31/78

152-1.2 Section 1242. Interstate Commerce Violations

"Whoever knowingly introduces, or manufactures for introduction, into interstate commerce, or transports or distributes in interstate commerce, any switchblade knife, shall be fined not more than \$2,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 2

152-1.2.1 Elements - Section 1242

(1) The person must have the specific criminal intent to

(2) Introduce or manufacture for introduction into interstate commerce, or transport, or distribute in interstate commerce any switchblade knife

(3) The knife itself must come within the specific definition of a switchblade as set out in Section 1241

(4) That the violator not come within one of the four exceptions set forth in Section 1244.

EFFECTIVE: 01/31/78

152-1.3 Section 1243. Within Specific Jurisdiction

"Whoever, within any Territory or possession of the U.S., within Indian country (as defined in Section 1151 of Title 18, USC), or within the special maritime and territorial jurisdiction of the U.S. (as defined in Section 7 of Title 18, USC), manufactures, sells, or possesses any switchblade knife, shall be fined not more than \$2,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

152-1.3.1 Elements - Section 1243

(1) Specific criminal intent to

(2) Manufacture, sell, or possess any switchblade knife

(3) Within any territory or possession of the U.S., within Indian country (as defined in Section 1151 of Title 18, USC), or within the special maritime and territorial jurisdiction of the U.S. (as defined in Section 7 of Title 18, USC)

(4) The knife itself must come within the specific definition of a switchblade knife as set out in Section 1241

(5) That the violator not come within one of the four

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 3

exceptions set forth in Section 1244.

EFFECTIVE: 01/31/78

152-1.4 Section 1244. Exceptions to Sections 1242 and 1243

These sections shall not apply to--

"(1) any common carrier or contract carrier, with respect to any switchblade knife shipped, transported, or delivered for shipment in interstate commerce in the ordinary course of business;

"(2) the manufacture, sale, transportation, distribution, possession, or introduction into interstate commerce, of switchblade knives pursuant to contract with the Armed Forces;

"(3) the Armed Forces or any member or employee thereof acting in the performance of his duty; or

"(4) the possession, and transportation upon his person, of any switchblade knife with a blade three inches or less in length by any individual who has only one arm."

EFFECTIVE: 01/31/78

152-2 MISCELLANEOUS

This act also provides for an amendment to Section 1716 of Title 18, USC, which provides that switchblade knives are nonmailable items. Violations of this part of the act are subject to investigation by the Inspection Division of the U.S. Postal Service.

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 4

152-3 POLICY

Upon receipt of a complaint where the facts are clear and definite, present the matter immediately to the appropriate USA for an expression of his views as to prosecution in the event the allegations can be successfully substantiated by further investigation. If necessary, conduct a preliminary inquiry to develop the allegations so that the view of the USA may be obtained at the earliest possible time. If the USA expresses the view that prosecution is not warranted, discontinue investigation and close administratively with a confirming letter to the USA. Where juvenile subjects are involved, the facts should be promptly discussed with the USA for his prosecutive opinion. The USA should be furnished with such background information on the juvenile as his prior arrest record, membership in antisocial juvenile gangs, aggravated circumstances of the instant offense, past and present juvenile status with local authorities, and other such special background data. The obtaining of the juvenile's background should not occasion any delay in the prompt and timely presentation of the case.

Complaints involving shipment of switchblade knives by mail only should be referred to the nearest office of a postal inspector.

FBIHQ should be promptly advised upon receipt of complaints and allegations indicating the possibility of large-scale manufacture, sale, or distribution of switchblade knives in interstate or foreign commerce, as well as on Government reservations.

When complaints are received alleging violations of Section 1243, refer to the Manual of Investigative Operations and Guidelines for general information and FBI policy pertaining to the special maritime and territorial jurisdiction of the U.S., and investigative procedure to be followed in these types of cases.

In all investigations be alert to the possibility of ascertaining the origin of the knife or knives involved and investigation should be conducted to identify the manufacturers, importers, distributors, and others engaged in traffic on a large scale.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 5

152-4 VENUE

In prosecutions against those who manufacture switchblade knives for the purpose of introducing them into interstate commerce, venue would lie in the district of manufacture, or, as in prosecutions against a shipper who "introduces" such articles into commerce, at the place of their delivery to the common or contract carrier for shipment.

The offenses involving transportation in interstate commerce being continuing offenses, they may be prosecuted pursuant to the provisions of Title 18, USC, Section 3237, "in any district from, through, or into which such commerce...moves." Offenses committed within the special maritime and territorial jurisdiction of the U.S., should be prosecuted, as provide in Title 18, USC, Section 3238, "in the district where the offender is found, or into which he is first brought."

EFFECTIVE: 01/31/78

152-5 CHARACTER - SWITCHBLADE KNIFE ACT

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 1

SECTION 153. AUTOMOBILE INFORMATION DISCLOSURE ACT

153-1 STATUTES

Title 15, USC, Sections 1231, 1232 and 1233

EFFECTIVE: 11/12/80

153-1.1 Definitions (Title 15, USC, Section 1231)

"For the purposes of this Act --

"(a) The term 'manufacturer' shall mean any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

"(b) The term 'person' means an individual, partnership, corporation, business trust, or any organized group of persons.

"(c) The term 'automobile' includes any passenger car or station wagon (pickup trucks are exempt from Statute sticker requirement).

"(d) The term 'new automobile' means an automobile the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

"(e) The term 'dealer' shall mean any person resident or located in the United States or any Territory thereof or in the District of Columbia engaged in the sale or the distribution of new automobiles to the ultimate purchaser.

"(f) The term 'final assembly point' means --

"(1) in the case of a new automobile manufactured or assembled in the United States, or in any Territory of the United States, the plant, factory, or other place at which a new automobile is produced or assembled by a manufacturer and from which such

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 2

automobile is delivered to a dealer in such a condition that all component parts necessary to the mechanical operation of such automobile are included with such automobile, whether or not such component parts are permanently installed in or on such automobile; and

"(2) in the case of a new automobile imported into the United States, the port of importation.

"(g) The term 'ultimate purchaser' means with respect to any new automobile, the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases such new automobile for purposes other than resale.

"(h) The term 'commerce' shall mean commerce among the several States of the United States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or among the Territories or between any Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation."

EFFECTIVE: 11/12/80

153-1.2 Label and Entries Required (Title 15, USC, Section 1232)

"Every manufacturer of new automobiles distributed in commerce shall, prior to the delivery of any new automobile to any dealer, or at or prior to the introduction date of new models delivered to a dealer prior to such introduction date, securely affix to the windshield, or side window of such automobile a label on which such manufacturer shall endorse clearly, distinctly and legibly true and correct entries disclosing the following information concerning such automobile --

"(a) the make, model, and serial or identification number or numbers;

"(b) the final assembly point;

"(c) the name, and the location of the place of business, of the dealer to whom it is to be delivered;

"(d) the name of the city or town at which it is to be delivered to such dealer;

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 3

"(e) the method of transportation used in making delivery of such automobile, if driven or towed from final assembly point to place of delivery; and

"(f) the following information:

"(1) the retail price of such automobile suggested by the manufacturer;

"(2) the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to such automobile at the time of its delivery to such dealer, which is not included within the price of such automobile as stated pursuant to paragraph (1)

"(3) the amount charged, if any, to such dealer for the transportation of such automobile to the location at which it is delivered to such dealer;

"(4) the total of the amounts specified pursuant to paragraphs (1), (2), and (3)."

EFFECTIVE: 11/12/80

153-1.3 Elements

(1) Section 1232

(a) A manufacturer of any newly manufactured or imported automobile distributed in interstate or foreign commerce

(b) Prior to delivery of the automobile to a dealer, or at or prior to the introduction date

(c) Willfully fails to affix a label to the windshield or side window disclosing information as provided for in Section 1232, or

(d) Willfully fails to endorse clearly, distinctly, and legibly any label as required by Section 1232, or

(e) Makes a false endorsement of any such label.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 4

(2) Section 1233

(a) A person willfully removes, alters, or renders illegible any label fixed to a new automobile pursuant to Section 1232

(b) Prior to the time automobile is delivered to the actual custody and possession of the ultimate purchaser, except

(c) Where the manufacturer relabels the automobile in instances in which it is rerouted, repurchased, or reacquired by the manufacturer.

EFFECTIVE: 01/31/78

153-1.4 Other Provisions

Venue in offenses involving prosecution of a manufacturer would lie in the district of manufacture or in any district in which such offense was begun, continued, or completed.

In offenses involving the removal or alteration of the label by an individual, venue would lie in the district where the offense took place.

EFFECTIVE: 01/31/78

153-2 POLICY

(1) Upon receipt of a complaint involving a possible violation, promptly obtain the pertinent facts involved. In many cases this will consist of examining suspect cars and the interview of persons in custody of the automobiles. Photographs of the automobiles and Automobile Information Disclosure Act (AIDA) labels should be considered. Keep in mind that the offender is he who has altered the label or removed it and not he who is merely in possession of an automobile without a label or with an altered label. Be impartial and objective during investigation. Make clear our jurisdiction and responsibilities under the statute to those contacted.

(2) During the investigation of the case, any problems with regard to the physical examination of the automobiles and labels involved, particularly regarding the conducting of a legal search,

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 5

should be promptly discussed with the USA for his views. In some cases in which there may be a refusal to execute a consent to search, the USA may desire to proceed on the basis of a search warrant.

The appropriate USA should be promptly contacted as soon as possible after sufficient facts have been developed upon which to base a prosecutive opinion. Bear in mind that prosecutive action in these cases can in all instances be initiated by the USA by filing an information in view of the fact that violations of this act are considered misdemeanors.

Be certain in each case, when discussing the facts with the USA for the purpose of obtaining a prosecutive opinion, to fully inform the USA with regard to prior AIDA violations on the part of the subject, particularly in those instances in which the USA may have declined on a particular subject because he was a first offender.

(3) The most common violation arises out of the so-called bootlegging operation. Bootlegging in the automobile trade involves the obtaining of a new model car by nonfranchised independent used-car or new car dealers. Keep in mind the fact that when a new car goes from a franchised to a nonfranchised dealer it is still a new car under the definition in the statute as the car has not yet reached an "ultimate purchaser." The used-car dealer will oftentimes alter or remove the AIDA label in an effort to protect the identity of the franchised dealer from whom he obtained the car and thus protect his source of supply. The franchised dealer too has an interest in having his identity concealed and he may be equally involved in the violation. The Department has held that willful tampering with the AIDA label for the purpose of concealing the identity of the original dealer to whom the automobile was sold and delivered constitutes a violation of this act and evidence that the alteration of labels is motivated by a desire to frustrate the disclosure of certain information on such labels would be sufficient from which to infer the element of willfulness. Be alert during investigations of this type of violation to any indication that a real or fictitious person or firm is being used as a "middle man" in the transaction between the new car and used-car dealer. Obtain evidence that such a "middle man" is not actually an "ultimate purchaser" and that his existence is merely to provide a cover for the transaction. One of the common techniques utilized is the automobile rental or leasing technique where in many cases it has been shown that there was no actual intent to lease or rent automobiles and the person or firm existed only to provide a vehicle between the new and used-car dealer for the sale of new automobiles.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 6

EFFECTIVE: 01/31/78

153-3 PENALTIES (Section 1233)

(1) Any manufacturer of automobiles distributed in commerce who willfully fails to affix to any new automobile manufactured or imported by him the label required shall be fined not more than \$1,000. Such failure with respect to each automobile shall constitute a separate offense.

(2) Any manufacturer of automobiles distributed in commerce who willfully fails to endorse clearly, distinctly and legibly any label as required or who makes a false endorsement of any such label, shall be fined not more than \$1,000. Such failure or false endorsement with respect to each automobile shall constitute a separate offense.

(3) Any person who willfully removes, alters, or renders illegible any label affixed to a new automobile, or any endorsement thereon, prior to the time that such automobile is delivered to the actual custody and possession of the ultimate purchaser of such new automobile, except where the manufacturer relabels the automobile in the event the same is rerouted, repurchased, or reacquired by the manufacturer of such automobile, shall be fined not more than \$1,000, or imprisoned not more than one year, or both. Such removal, alteration, or rendering illegible with respect to each automobile shall constitute a separate offense.

EFFECTIVE: 01/31/78

153-4 CHARACTER - AUTOMOBILE INFORMATION DISCLOSURE ACT

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 154 - 1

SECTION 154. INTERSTATE TRANSPORTATION OF UNSAFE REFRIGERATORS

154-1 STATUTES

Title 15, USC, Sections 1211, 1212, 1213, 1214

EFFECTIVE: 01/31/78

154-1.1 Elements

Section 1211 makes it unlawful for any person to introduce or deliver for introduction into interstate commerce any household refrigerator manufactured on or after 10-30-58, unless it is equipped with a device, enabling the door thereof to be opened from the inside which conforms to the standards prescribed pursuant to Section 1213.

EFFECTIVE: 01/31/78

154-1.1.1 Other Provisions

Under Section 1213 the Secretary of Commerce shall prescribe and publish in the "Federal Register" commercial standards for devices which, when used in or on household refrigerators, will enable the doors thereof to be opened easily from the inside; and the standards first established under this Section shall be so prescribed and published not later than one year after August 2, 1956.

Note: These standards were published by the Secretary of Commerce in the "Federal Register" dated 8-1-57, Volume 22, Number 148.

Section 1214 defines "interstate commerce" as used in this chapter to include commerce between one State, Territory, possession, the District of Columbia or the Commonwealth of Puerto Rico and another State, Territory, possession, the District of Columbia or the Commonwealth of Puerto Rico.

Venue lies in any district from, through, or into which transportation occurs or in the District of Columbia, or Territory or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 154 - 2

possession of the U.S. wherein such transportation occurs.

EFFECTIVE: 01/31/78

154-1.1.2 Policy

(1) The Department of Commerce is specifically charged with the regulatory provisions of this act.

(2) The Bureau will not make inspections of manufacturing plants to insure compliance with the Department of Commerce regulations.

(3) Inquiries received relative to whether a device installed on a refrigerator complies with the standards set out by the Department of Commerce should immediately be referred to the Department of Commerce.

(4) Upon receipt of a complaint under Section 1211 of this act, said complaint should immediately be discussed with the appropriate USA to determine whether the complaint is sufficient to warrant investigation and prosecution.

EFFECTIVE: 01/31/78

154-2 PENALTY

Imprisonment for not more than one year or a fine of not more than \$1,000 or both. (Section 1212 - misdemeanor).

EFFECTIVE: 01/31/78

154-3 CHARACTER - INTERSTATE TRANSPORTATION OF UNSAFE REFRIGERATORS

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 154 - 3

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 1

SECTION 155. NATIONAL AERONAUTICS AND SPACE ACT OF 1958

155-1 BACKGROUND

The National Aeronautics and Space Act of 1958 was approved by the President on July 29, 1958, known as Public Law 85-568. Section 304 (c) of this law amends Chapter 37 of Title 18, USC, entitled "Espionage and Censorship." A new Section, 799, has been added to this Chapter.

EFFECTIVE: 01/31/78

155-2 STATUTE

Title 18, USC, Section 799, reads as follows:

"Violation of regulations of National Aeronautics and Space Administration

"Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base, or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than \$5,000, or imprisoned not more than one year, or both."

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 2

155-3

DEPARTMENTAL POLICY AND INVESTIGATIVE JURISDICTION

(1) The Department has advised that the responsibility for enforcement and prosecution for an offense arising under Title 18, USC, Section 799 is assigned to the Internal Security Section of the Criminal Division of the Department. Since Section 799 is part of Chapter 37 of Title 18, relating to espionage and the protection of defense installations, investigation of an alleged violation is within the FBI's investigative jurisdiction.

(2) The Department noted that although Section 799 prohibits the violation of any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration (NASA) where such regulation or order deals with the protection or security of its facilities, not every technical infringement should be investigated by the FBI. It is expected that the administrative enforcement of its own regulations would be handled in the first instance by NASA with only the more serious violations being referred to the FBI for its investigative attention.

(3) In pursuing any criminal investigation of an alleged violation of Section 799, the FBI should keep in mind that it would be necessary to establish that any transgression was not merely technical or inadvertent, but a willful or purposeful violation having prosecutive merit. Where any doubt exists, the matter should be discussed with the Department.

EFFECTIVE: 01/31/78

155-4

NASA INSTALLATIONS COVERED BY THIS REGULATION

Alabama

George C. Marshall Space Flight Center, Marshall Space
Flight Center, Alabama 35812

California

Ames Research Center, Moffett Field, California 94035

Flight Research Center, P. O. Box 273, Edwards, California

93523

KSC Western Test Range Operation Division, P. O. Box 425,

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 3

Lompoc, California 93436

NASA Pasadena Office, 4800 Oak Grove Drive, Pasadena,
California 91103

Florida

John F. Kennedy Space Center, Kennedy Space Center,
Florida 32899

Louisiana

Michoud Assembly Facility, P. O. Box 29300, New Orleans,
Louisiana 70129

Maryland

Goddard Space Flight Center, Greenbelt, Maryland 20771

Mississippi

Mississippi Test Facility, Bay St. Louis, Mississippi
39520

New Mexico

JSC White Sands Test Facility, P. O. Drawer MM, Las
Cruces, New Mexico 88001

New York

Goddard Institute for Space Studies, 2880 Broadway, New
York, New York 10025

Ohio

Lewis Research Center, 21000 Brookpark Road, Cleveland,
Ohio 44135

Texas

Lyndon B. Johnson Space Center, Houston, Texas 77058

Virginia

Langley Research Center, Langley Station, Hampton,

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 4

Virginia 23665

Wallops Flight Center, Wallops Island, Virginia 23337

EFFECTIVE: 01/31/78

155-5 INVESTIGATIVE PROCEDURES

(1) Upon receipt of any information from a NASA security officer concerning a possible violation of attempted violation of Title 18, USC, Section 799, promptly furnish available facts to FBIHQ in form suitable for dissemination, for referral to the Department for review. Should information indicating a violation be received from any other source, advise NASA security officer attached to appropriate NASA installation of information and, thereafter, submit same to FBIHQ as above.

(2) Conduct no active investigation unless instructed to do so by FBIHQ.

EFFECTIVE: 01/31/78

155-6 CHARACTER - NATIONAL AERONAUTICS AND SPACE ACT OF 1958

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 1

SECTION 156. EMPLOYEE RETIREMENT INCOME SECURITY ACT

156-1 STATUTES

- | (1) | Title 29, USC, Sections 1021-1029, 1111, 1131, 1141
- | (2) | Title 18, USC, Sections 664, 1027, 1954

EFFECTIVE: 05/28/85

156-1.1 Title 29, USC, Section 1111

EFFECTIVE: 05/28/85

156-1.1.1 Elements

| Prohibition against holding position - Persons convicted of certain crimes prior to October 12, 1984, are prohibited from serving as any officer, fiduciary, trustee, custodian, counsel, agent, employee or representative of any employee benefit plan, or as any adviser, decision-maker, or compensated consultant for such benefit plan for five years after date of final conviction or end of imprisonment, whichever is the latter. The Comprehensive Crime Control Act of 1984 provides that for convictions after October 12, 1984, the disqualification extends to 13 years after conviction or end of imprisonment, whichever is later. Exceptions to this are when citizenship rights have been fully restored or when the U.S. Parole Commissioner gives approval to serve in the position. The Act also prohibits any person from knowingly permitting any other convicted person to serve in a prohibited position. |

EFFECTIVE: 05/28/85

156-1.2 Title 29, USC, Section 1131

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 2

EFFECTIVE: 05/28/85

156-1.2.1 Elements

(1) Willful failure to prepare description of plan and annual financial report according to requirements in Act.

(2) Willful failure to publish description of plan and annual financial report by:

(a) Not making them available for examination of any participant or beneficiary at principal office of plan

(b) Not mailing them to any participant or beneficiary upon written request

(c) Not filing them with the Secretary of Labor (Title 29, USC, Sections 1021-1029)

EFFECTIVE: 05/28/85

156-1.3 Title 29, USC, Section 1141

EFFECTIVE: 05/28/85

156-1.3.1 Elements

Interference with rights - Use of fraud, force, or violence (or threat thereof) to interfere with or prevent exercise of any right to which participant or beneficiary may become entitled, under the benefit plan, Title III, Section 3001 of ERISA, or the former Welfare and Pension Plans Disclosure Act.

EFFECTIVE: 05/28/85

156-1.4 Title 18, USC, Section 664

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 3

EFFECTIVE: 05/28/85

156-1.4.1 Elements

Embezzlement or theft - Any person who embezzles, steals, abstracts, or converts to his/her own use or to the use of another any of monies, funds, securities, premiums, credits, property, or other assets of any plan subject to the Act.

EFFECTIVE: 05/28/85

156-1.5 Title 18, USC, Section 1027

EFFECTIVE: 05/28/85

156-1.5.1 Elements

Any person who knowingly makes false statement or representation of fact, conceals, covers up, or fails to disclose any fact, in

the plan | (1) | Any document required by the Act to be published by

| (2) | Any records required by the Act to be kept by the plan which are necessary to verify or otherwise check for accuracy and completeness of any document required by the Act to be published by the plan

| (3) | Any information required by the Act to be certified to the administrator of the plan

EFFECTIVE: 05/28/85

156-1.6 Title 18, USC, Section 1954

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 4

EFFECTIVE: 05/28/85

156-1.6.1 Elements

(1) Kickbacks - Any person listed below who receives or agrees to receive or solicits any fee, kickback, commission, gift, loan, money, or thing of value because of, or with intent to be influenced with respect to any of his/her actions, decisions, or other duties relating to any question or matter concerning a plan

(a) Administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare benefit plan or employee pension benefit plan; or

(b) An officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan; or

(c) An officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan; or

(d) A person who, or an officer, counsel, agent, or employee of an organization which, provides benefit plan services to such plan

(2) Any person who directly or indirectly gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value prohibited by this section

Exception: Bona fide salary, compensation, or other payments made for goods or facilities actually furnished, or for service actually performed in the regular course of duties of any person mentioned above.

EFFECTIVE: 05/28/85

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 5

156-2 | SIGNIFICANT EXCLUSIONS IN COVERAGE (TITLE 29, USC,
SECTION 1003)

(1) Governmental Plans

(a) Title I of ERISA excludes from coverage of any employee benefit plan which is established or maintained by any Government (Federal, state, or local) or any agency of Government.

(b) General Exceptions to (a)

1. If an employee benefit plan covers any participant who is employed by a private employer, it may be covered by ERISA.

2. A determination can be made as to whether or not a plan is covered by ERISA by contact with the U.S. Department of Labor (DOL) to ascertain if the plan files an annual report.

(2) Church Plans

(a) Benefit plans maintained and established for its employees, by a church which is exempt from Federal income tax, are excluded from coverage by ERISA.

(b) General Exception to (a) - Employees of churches who are employed in trades or businesses unrelated to the primary activities of the church may be covered (such as a situation where a church owns a business and the employee works for the business).

(3) Workmen's Compensation Funds - A plan that is maintained solely for the purpose of complying with workmen's compensation and unemployment laws is not covered by ERISA.

EFFECTIVE: 06/09/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 6

||156-3| POLICY

(1) Memorandum of Understanding executed between Department of Justice and Labor provides as follows:

(a) Investigation of alleged failure to disclose information or improper reporting (Title 29, USC, Section 1131) by welfare or pension plans to plan members or to Department of Labor as required (Title 29, USC, Sections 1021-1029) will be conducted by Labor and matter will be referred to Department of Justice for consideration of criminal prosecution

(b) Investigations of following alleged violations will be conducted by FBI:

1. Prohibition against holding positions (Title 29, USC, Section 1111)
2. Interference with rights (Title 29, USC, Section 1141)
3. Embezzlement (Title 18, USC, Section 664)
4. False statements (Title 18, USC, Section 1027)
5. Kickbacks (Title 18, USC, Section 1954)

(2) Whenever allegations of violation handled by the Department of Labor are received, full information is to be furnished to that agency in writing.

(3) Complaints concerning violations as listed in (1) (b) above:

Discuss complaints immediately with USA to obtain opinion whether information received contains sufficient indication of violation to justify investigation.

EFFECTIVE: 06/09/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 7

156-4

INVESTIGATIVE PROCEDURE

(1) Prohibition against holding positions (Title 29, USC, Section 1111) Document by Identification Record and certified copies of judgment of conviction and official record of release from imprisonment that person was convicted or imprisoned for violation cited in statute (robbery, bribery, extortion, embezzlement, fraud, etc.) and develop evidence to establish that the person is serving with the plan in a prohibited position (administrator, officer, trustee, custodian, etc.)

(2) Disclosure or reporting (Title 29, USC, Section 1131) No investigation to be conducted by FBI since Department of Labor has jurisdiction; however, information received should be forwarded FBIHQ promptly for dissemination in LHM under cover of airtel.

(3) Interference with rights (Title 29, USC, Section 1141) Ascertain specific rights of participant or beneficiary reportedly interfered with and develop evidence establishing means allegedly used to cause interference (fraud, force, violence, or threat thereof).

(4) Embezzlement (Title 18, Section 664)

(a) Embezzlement investigation should develop in detail shortages in funds of welfare or pension plan, and independent evidence should be secured to prove the person or persons responsible for shortage. Besides minute examination of accounting or other records of plans, persons who are indicated to have knowledge of shortages and who would be possible witnesses to establish the responsibility of certain persons for the shortages, should be interviewed. Funds involved in shortages should be traced wherever possible into the possession of the subject. Consideration should be afforded to checking records such as bank and other business accounts into or through which funds or other assets may have passed. Such action will be pertinent in those instances in which records of the plans are altered or destroyed or for some other reason are unavailable.

(b) Be alert to determine facts which specify alleged embezzlement pertains to funds of welfare or pension plans since embezzlement of other money or assets of company or labor union is not covered by act. Labor union welfare and pension plans are often established in the form of trusts, the funds of which are contributed by employer, and such funds are utilized for hospitalization, insurance, or pension benefits payable to union

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 8

members or their beneficiaries. These funds are separate from monies in the treasury of a labor union or its locals. Embezzlement of labor union money is covered under the Labor Management Reporting and Disclosure Act of 1959 (Section 159 of this manual).

(5) False Statements (Title 18, USC, Section 1027) - False statements investigations should be handled similar to normal fraud against the Government matter in accordance with procedure outlined in Section 46 of this manual.

(6) Kickbacks (Title 18, USC, Section 1954)

(a) Investigations regarding kickbacks relate generally to any offer, payment, solicitation, or acceptance of a fee or commission in any form which is allegedly involved in transactions of a welfare or pension plan. Any indication of such irregularities in plan operation should be thoroughly explored in order to establish participation of each and every person involved. Particular attention should be afforded to detecting any means used to disguise kickbacks which may be manipulated through middlemen who act as go-betweens in the scheme of the principals involved.

(b) Allegations to be alert for involve fees, kickbacks, commissions, etc., being paid in order that funds of a plan will be loaned or invested. Investigation of such allegations regarding loans made by a plan for financing construction work requires accounting for all disbursement of proceeds of such loans and tracing any questionable items which may be considered subterfuge in order to conceal kickback. Likewise, investigation of investments made by a plan requires complete verification in order to uncover any portions of such investment which may be diverted into a kickback.

EFFECTIVE: 04/24/90

156-5

INTERVIEW WITH UNION OFFICIALS

These interviews may be conducted on the authority of the SAC, provided all of the following circumstances exist:

(1) Files of field office where interview to be conducted contain no information to indicate such interview would be inadvisable.

(2) Interview is not premature and other available

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 9

sources of information desired from union official have been exhausted.

(3) Interview is absolutely necessary in interest of conducting complete and thorough investigation.

(4) The interview must be discussed with and approved by the USA.

(5) The field office must ensure that the interview will not interfere with any other investigation of the official or union.

(6) In the event an auxiliary office is to conduct the interview, that office must ensure their files contain no information to indicate the interview would be inadvisable.

(7) FBIHQ must be notified in advance in the event the interviewee is prominent, extremely controversial, or of such stature to focus national attention on the investigation.

EFFECTIVE: 10/18/88

156-6

REPORTING PROCEDURES

(1) |An initial airtel with accompanying LHM (original and three copies) should be submitted to FBIHQ within 60 days if the investigation involves LCN members or associates. The LHM should contain the preliminary opinion of the USA and sufficient identification data on the subject(s) for indexing purposes. |

(2) |A progress letter should be submitted to FBIHQ every 180 days containing a summary of investigation conducted to date and a statement regarding investigation contemplated during the next 180 days. |

(3) |A closing airtel should be submitted to FBIHQ with an LHM restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation. The LHM should include the final opinion of the USA. |

(4) |If the investigation involves non-LCN groups (i.e., Asian organized crime, Sicilian Mafia, etc.), advise FBIHQ by airtel with accompanying LHM, as described above, within 60 days. The

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 10

results and/or summary should be reported by LHM (original and three copies).

EFFECTIVE: 10/18/88

156-7 PENALTIES

(1) Title 29, USC, Section 1111 - \$10,000 or not more than five years, or both

(2) Title 29, USC, Section 1141 - \$10,000 or not more than one year, or both

(3) Title 18, USC, Section 664 - \$10,000 or five years or both

(4) Title 18, USC, Section 1027 - \$10,000 or five years or both

(5) Title 18, USC, Section 1954 - \$10,000 or three years or both

EFFECTIVE: 10/18/88

156-8 CHARACTER - EMPLOYEE RETIREMENT INCOME SECURITY ACT

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 1

SECTION 157. CIVIL UNREST

157-1 RESPONSIBILITY OF THE BUREAU

The responsibility of the Bureau under this section is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest, which became effective April 5, 1976.

EFFECTIVE: 01/31/78

157-1.1 Categories for Reporting

Under these guidelines, the FBI is responsible for reporting information on civil disturbances or demonstrations in four categories:

(1) Investigating violations of Federal criminal law directed explicitly at civil disorders (e.g., Title 18, USC, Sections 231, 2101); and investigating violations of Federal criminal law of general applicability occurring during civil disorders.

(2) Providing information and assistance, upon request of the Secret Service, to aid in carrying out its protective responsibilities under Title 18, USC, Sections 112, 970, 3056 and P. L. 90-331. Information relating to the protective responsibilities of the Secret Service which is acquired incidentally in the course of carrying out FBI responsibilities should be reported to the Secret Service. It should be noted, however, investigations for the purpose of assisting the Secret Service in its protective responsibilities should not be undertaken without a specific request from the Director of Secret Service or his designee made or confirmed in writing.

(3) Providing information concerning actual or threatened civil disorders which may require the presence of Federal troops to enforce Federal law or Federal court orders (Title 10, USC, Sections 332, 333) or which may result in a request by state authorities to provide Federal troops in order to restore order (Title 10, USC, Section 331).

(4) Providing information relating to demonstration

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 2

activities which are likely to require the Federal Government to take action to facilitate the activities and provide public health and safety measures with respect to those activities.

EFFECTIVE: 01/31/78

157-2 POLICY REGARDING REPORTING OF CIVIL DISORDERS

The Bureau's responsibilities in reporting Civil Disorders are as follows:

(1) Information relating to actual or threatened civil disorders acquired by the FBI from public officials or other public sources or in the course of its other investigations, should be reported to the Department of Justice. In this connection it should be noted that under the Attorney General's guidelines for reporting on civil disorders and demonstrations there is no prohibition against alerting sources, including appropriate law enforcement officials and established informants, of the Bureau's continuing interest in civil disorders and demonstrations.

(2) Investigations should not be undertaken to collect information relating to actual or threatened civil disorders except upon specific request of the Attorney General or his designee. Investigations will be authorized only for a period of 30 days but the authorization may be renewed, in writing, for subsequent periods of 30 days.

(3) Information should be collected and reported pursuant to paragraphs (1) and (2) above, for the limited purpose of assisting the President in determining whether Federal troops are required and determining how a decision to commit troops shall be implemented. This information should be based on such factors as:

(a) The size of the actual or threatened disorder - both in number of people involved or affected and in geographic area;

(b) The potential for violence;

(c) The potential for expansion of the disorder in light of community conditions and underlying causes of the disorder;

(d) The relationship of the actual or threatened disorder to the enforcement of Federal laws or court orders and the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 3

likelihood that state or local authorities will assist in enforcing those laws or orders;

(e) The extent of state or local resources available to handle the disorder.

(4) Investigations undertaken, at the request of the Attorney General or his designee, to collect information relating to actual or threatened civil disorders should be limited to inquiries of:

(a) Field office and FBIHQ files and indices;

(b) Public records and other public sources of information;

(c) Federal, state, and local records and officials;

(d) Established informants or other established sources of information.

Interviews of individuals other than those listed above, and physical and photographic surveillance should not be undertaken as part of such an investigation except when expressly authorized by the Attorney General or his designee.

EFFECTIVE: 01/31/78

157-3

REPORTING OF DEMONSTRATIONS

The reporting of demonstrations should conform to and include the following:

(1) Information relating to demonstration activities which are likely to require the Federal Government to take action to facilitate the activities and provide public health and safety measures with respect to those activities, which is acquired incidentally by the Bureau in the course of carrying out its responsibilities, should be reported to the Department of Justice.

(2) Investigations should not be undertaken to collect information with respect to such demonstrations except upon specific request of the Attorney General or his designee.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 4

(3) Information collected and reported pursuant to (1) and (2) above, should be limited to that which is necessary to determine:

(a) The date, time, place, and type of activities planned;

(b) The number of persons expected to participate;

(c) The intended mode of transportation to the intended site or sites and the intended routes of travel;

(d) The date of arrival in the vicinity of the intended site and housing plans, if pertinent;

(e) Similar information necessary to provide an adequate Federal response to insure public health and safety and the protection of First Amendment rights. This is intended to encompass such additional facts affecting the Federal responsibility as unusual health needs of participants, counterdemonstrations planned which may increase safety needs, or possible inability of participants to arrange return transportation.

(4) Investigations undertaken to collect information relating to demonstrations pursuant to (2) above should be limited to determining the information described in (3) above. Such information should be collected only by a check of:

(a) Field office and FBIHQ files and indices;

(b) Public records and other public sources of information;

(c) Federal, state, and local records and officials;

(d) Persons involved in the planning of the demonstration, provided that in conducting interviews with such persons, they be initially advised of the authority to make the inquiry and the limited purpose for which it is made.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 5

157-4 PHOTOGRAPHIC SURVEILLANCES

Photographic Surveillances should not be conducted in carrying out Bureau responsibilities in collecting and reporting information on demonstrations.

EFFECTIVE: 01/31/78

157-5 DISSEMINATION OF DATA PERTAINING TO CIVIL DISORDERS AND
DEMONSTRATIONS

Under the Attorney General's Guidelines for reporting on both civil disorders and demonstrations, information concerning criminal offenses within the investigative jurisdiction of another Federal agency which is acquired incidentally in the course of Guidelines' implementation, should be reported to the Federal agency having jurisdiction. Information concerning serious criminal offenses within the investigative jurisdiction of state or local agencies should be reported to the appropriate lawful authorities. In this regard, reference to serious offenses would exclude such matters as: drunkenness, vagrancy, loitering, disturbing the peace, disorderly conduct, adultery, fornication and consensual homosexual acts, false fire alarm, nonspecific charges of suspicion or investigation, traffic violations and juvenile delinquency.

Information obtained relating to both civil disorders and demonstrations, which comes within the purview of the Attorney General's Guidelines, should be furnished to the United States Attorney locally. Civil disorder information may also be reported to Federal, state, or local officials at the location of the actual or threatened disorder who have a need for the information in order to carry out their official responsibilities in connection with such a disorder.

By memorandum dated 7/26/76, the Attorney General set forth additional guidelines relating to the routine dissemination of information on both civil disorders and demonstrations to CIA and also dissemination of this type information to CIA and other Federal agencies on specific request. Routine dissemination to CIA is restricted to that which relates directly to the security or safety of CIA installations, personnel or operations. These additional guidelines also pointed out that on the other hand, it may be proper to furnish CIA or any other Federal agency upon its specific request, information concerning earlier civil disorders or demonstrations,

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 6

whether or not they directly related to the agency, if that information will be useful in determining the extent to which present activities pose a threat to the security of the agency's facilities, personnel or operations. For example, if a Government facility is, or is about to be, the target of a demonstration by a particular group, information in FBI files concerning prior demonstrations by that group which resulted in violence or illustrated the group's ability to prevent violence would be relevant to a determination as to whether a security threat exists. Such information might properly be furnished upon request.

The Attorney General's memorandum of 7/26/76 further sets forth it is important that the very limited nature of the Federal Government's interest in both civil disorders and demonstrations be recognized not only in the acquisition of information but also in its dissemination to other departments and agencies and unless the information indicates that some action or response by the agency involved is likely to be required routine dissemination should not be made.

EFFECTIVE: 01/31/78

157-6 REPORTING PROCEDURES TO BE UTILIZED IN CIVIL DISORDERS AND
DEMONSTRATIONS

Information obtained which comes within the purview of the Attorney General's Guidelines for gathering and reporting information on civil disorders and demonstrations should be furnished to FBIHQ and interested agencies, including the United States Attorney locally, by most timely means warranted under the circumstances. Actual or threatened riots, disturbances, or disorders should be reported to FBIHQ by teletype unless circumstances warrant telephone call, in which event call should be confirmed by teletype. Teletypes should be in form suitable for dissemination and where possible information relating to those items specifically referred to in 157-2 (3)(a) through (e) and 157-3 (3)(a) through (e) above should be included. All administrative data, including reference should be at end under "Administrative" heading; classify if warranted, etc. Teletypes need not be followed by LHMs unless investigation of the disorder or demonstration has been specifically requested by the Attorney General or his designee. Include in details of teletype identities of local and Federal agencies notified. Record in field file identities of persons who were contacted at the notified agencies, time and date and identities of FBI personnel making contacts.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 7

EFFECTIVE: 01/31/78

157-7 CHARACTER

The title of the case should be descriptive of activities involved followed by character "Civil Unrest."

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 1

SECTION 159. LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF
1959 (INVESTIGATIVE MATTER)

159-1 STATUTES

Title 29, USC, Sections 501 (c), 503 (b), (c), 504, 522,
and 530.

EFFECTIVE: 05/28/85

159-1.1 Section 501 (c)

EFFECTIVE: 05/28/85

159-1.1.1 Elements

(1) "(c) any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

EFFECTIVE: 05/28/85

159-1.2 Sections 503 (b) & (c)

EFFECTIVE: 05/28/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 2

159-1.2.1 Elements

(1) "(b) No...employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this chapter.

(2) "(c) Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both."

(3) Section 503(b) also prohibits the payment of a fine by a labor organization of any officer or employee convicted of any willful violation of this chapter. Such violations are investigated by the Department of Labor.

EFFECTIVE: 05/28/85

159-1.3 Section 504

EFFECTIVE: 05/28/85

159-1.3.1 Elements

(1) "(a) No person...who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of subchapter III or IV of this chapter, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve-

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 3

labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with and labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the monies, funds, assets, or property of any labor organization, during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection."

(2) "(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

(3) "(c) For the purpose of this section-

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 4

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment."

(4) | "(d) Whenever any person-

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred."

(5) Subchapter III of this chapter deals with reporting by labor organizations, officers and employees of labor organizations, and employers. Subchapter IV deals with trusteeships. Violations of these chapters are investigated by Department of Labor.

EFFECTIVE: 05/28/85

159-1.4 Section 522

EFFECTIVE: 05/28/85

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 5

159-1.4.1 Elements

(1) "(a) It shall be unlawful to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any individual (except bona fide increase in wages or other employee benefits) by taking or obtaining any money or other thing of value from such employer against his will or with his consent."

(2) "(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned not more than twenty years or both."

EFFECTIVE: 05/28/85

159-1.5 Section 530

EFFECTIVE: 05/28/85

159-1.5.1 Elements

(1) "It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this chapter. Any person who willfully violates this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

EFFECTIVE: 05/28/85

159-2 BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS

The principal rights to which a member of a labor organization is entitled under the provisions of this act are set out in Title 29, USC, Sections 411, 412, 414, and 415.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 6

EFFECTIVE: 01/31/78

159-2.1 Section 411

EFFECTIVE: 01/31/78

159-2.1.1 Bill of Rights; Constitution and Bylaws of Labor
Organizations

(1) "(a) (1) Equal rights - Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

"(2) Freedom of speech and assembly - Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, that nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

"(3) Dues, initiation fees, and assessments - Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on September 14, 1959 shall not be increased, and no general or special assessment shall be levied upon such members, except -

"(A) in the case of a local labor organization, (i) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (ii) by

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 7

majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

"(B) in the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (i) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than thirty days' written notice to the principal office of each local or constituent labor organization entitled to such notice, or (ii) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (iii) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: Provided, that such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

"(4) Protection of the right to sue - No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: Provided, that any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: And provided further, that no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

"(5) Safeguards against improper disciplinary action - No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

(2) "(b). Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall be of no force or effect."

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 8

EFFECTIVE: 01/31/78

159-2.2 Section 412

EFFECTIVE: 01/31/78

159-2.2.1 Civil Action for Infringement of Rights; Jurisdiction

(1) "Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located."

EFFECTIVE: 01/31/78

159-2.3 Section 414

EFFECTIVE: 01/31/78

159-2.3.1 Right to Copies of Collective Bargaining Agreements

(1) "It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any employer to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 9

inspection by any member or by any employee whose rights are affected by such agreement. The provisions of Section 440 of this title shall be applicable in the enforcement of this section."

(2) Section 440 of Title 29, USC, deals with the authority of the Secretary of Labor to bring civil actions where appropriate.

EFFECTIVE: 01/31/78

159-2.4 Section 415

EFFECTIVE: 01/31/78

159-2.4.1 Information to Members of Provisions of Chapter

(1) "Every labor organization shall inform its members concerning the provisions of this chapter."

EFFECTIVE: 01/31/78

159-3 OTHER RIGHTS TO WHICH A MEMBER OF A LABOR ORGANIZATION IS ENTITLED UNDER THE PROVISIONS OF THIS ACT

(1) Right to inspect reports - Title 29, USC, Sections 431 (c) and 461 (b)

Every labor organization required to submit a report under subchapters III and IV of this chapter shall make the information contained in such report available to all its members.

(2) Right to inspect books - Title 29, USC, Sections 431 (c) and 461 (b)

Any member may for just cause inspect books, records, and accounts in order to verify reports made under subchapters III and IV of this chapter.

(3) Right to have literature distributed - Title 29, USC, Section 481 (c)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 10

Every national or international labor organization (except a federation of national or international labor organizations) and every local labor organization shall have the duty to comply with any reasonable request to distribute campaign literature for any bona fide candidate at the candidate's expense, and to refrain from discrimination for or against any candidate with respect to the use of membership lists and with respect to the distribution of campaign literature of candidates.

(4) Right to inspect membership lists - Title 29, USC,
Section 481 (c)

Any bona fide candidate may, once within 30 days before the election, inspect a list of members who are subject to union-security agreements, which list must be maintained and kept at principal office of the organization.

(5) Right to have an observer at the polls - Title 29,
USC, Section 481 (c)

Any candidate shall have the right to have adequate safeguards to insure a fair election, including the right to have an observer at the polls of an election and at the counting of the ballots.

(6) Right to be a candidate - Title 29, USC, Section 481
(e)

Every member in good standing shall be eligible to be a candidate (subject to Title 29, USC, Section 504, and reasonable qualifications uniformly imposed).

(7) Right to choose candidates - Title 29, USC, Section
481 (e)

A reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall have the right to vote for or otherwise support candidates of his choice and to have the prescribed notice of election.

(8) Right with respect to removal of officers - Title 29,
USC, Section 481 (h)

If the Secretary, upon application by any member of a local labor organization, finds the constitution and bylaws do not

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 11

provide an adequate procedure to remove an elected officer guilty of serious misconduct, such officer may be removed by members in good standing voting in secret ballot.

(9) Right to recover damages to the union - Title 29,
USC, Section 501 (b)

Any member may sue to recover damages or secure an accounting when an officer has violated his fiduciary duties and responsibilities and the labor organization refuses to bring such an action.

EFFECTIVE: 01/31/78

159-4 DEFINITIONS (TITLE 29, USC, SECTION 402)

"For the purposes of this chapter -

(1) "(a) 'Commerce' means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(2) "(b) 'State' includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act." (Title 43, USC, Sections 1331-1343.)

(3) "(c) 'Industry affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor Management Relations Act, 1947, as amended, or in the Railway Labor Act, as amended.

(4) "(d) 'Person' includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, jointstock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(5) "(e) 'Employer' means any employer or any group or association of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in an industry affecting

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 12

commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(6) "(f) 'Employee' means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this chapter.

(7) "(g) 'Labor dispute' includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(8) "(h) 'Trusteeship' means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(9) "(i) 'Labor organization' means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(10) "(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it -

"(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 13

"(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

"(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

"(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

"(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection; other than a State or local central body.

(11) "(k) 'Secret ballot' means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(12) "(1) 'Trust in which a labor organization is interested' means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(13) "(m) 'Labor relations consultant' means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(14) "(n) 'Officer' means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 14

governing body.

(15) "(o) 'Member' or 'member in good standing,' when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership from appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(16) "(p) 'Secretary' means the Secretary of Labor.

(17) "(q) 'Officer, agent, shop steward, or other representative,' when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried nonsupervisory professional staff, stenographic, and service personnel.

(18) "(r) 'District court of the United States' means a United States district court and a United States court of any place subject to the jurisdiction of the United States."

EFFECTIVE: 01/31/78

159-5 JURISDICTION

Jurisdiction under the statute is assigned to the Secretary of Labor. On 2-16-60 the Attorney General and the Secretary of Labor signed a Memorandum of Understanding whereby the Secretary delegated jurisdiction with respect to the above-quoted portions of the act to the Department of Justice. Labor Department retained jurisdiction as regards civil enforcement actions and other criminal violations not quoted above. The pertinent portion of the text of the Memorandum of Understanding dealing with the investigation of criminal violations is as follows:

"2. Investigations of Matters made Criminal by the Act

"Subject to specific arrangements agreed upon by the Department of Justice and the Department of Labor on a case-by-case basis, investigation under the Act will be conducted as follows:

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 15

"(a) The Department of Labor will through its own staff investigate those criminal matters arising under:

"1. Title II (Reporting by labor organizations, officers and employees of labor organizations and employers).

"2. Title III (Trusteeship).

"3. Section 502 (Bonding) of Title V.

"4. Section 503(a) (Making of loans by labor organizations to officers and employees of the labor organization) of Title V.

"5. That part of Section 503(b) of Title V which relates to the payment of a fine of a labor official or employee by a labor union.

"(b) The Department of Justice will, under delegation from the Secretary of Labor, investigate those criminal matters arising under:

"1. Section 501(c) (Embezzlement of union funds) of Title V.

"2. That part of Section 503(b) of Title V which refers to a payment of a fine of a labor official or employee by an employer.

"3. Section 504 (Prohibition against certain persons from holding office) of Title V.

"4. Section 505 (Containing an amendment to section 302, Labor Management Relations Act of 1947, as amended) of Title V." (See Part I, Section 122 of this manual.)

"5. Section 602 (extortionate picketing) of Title VI.

"6. Section 610 (deprivation of rights by force and violence) of Title VI."

EFFECTIVE: 05/10/82

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 16

159-6 | SIGNIFICANT EXCLUSIONS IN COVERAGE

(1) Unions comprised solely of employees of the United States, or any corporation wholly owned by the United States.

(a) Exception - unions comprised of employees of the U.S. Postal Service are covered by the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959 by virtue of the Postal Reorganization Act, Title 39, USC, Section 1209.

(b) Violations involving internal union affairs by Federal employee unions are investigated by the Department of Labor (DOL) by virtue of the Civil Service Reform Act, Title 5, USC, Section 1101, and Executive Order 11491, as amended in 1978.

(2) Unions comprised solely of employees of any state or political subdivision thereof.

Exception - DOL holds that a labor organization comprised of state or local government employees is covered by LMRDA if the local admits to membership at least one private-industry employee.

EFFECTIVE: 05/10/82

159-7 | POLICY

(1) Allegations, together with any pertinent information in field office files, should be discussed with USA immediately to determine whether violation is indicated, and if so, specific section involved. If violation is within Labor Department's jurisdiction, furnish USA sufficient information to enable him/her to refer complaint to Labor-Management Services Administration, and submit closing airtel and LHM. If violation is within our jurisdiction, obtain USA's opinion as to whether material furnished contains a sufficient indication of possible violation to justify investigation by the Bureau and prosecution in Federal court or whether he/she desires to refer the matter to local authorities.

(2) If USA requests matter be referred to local authorities, determine if violation is one that if conviction resulted would prohibit a person from holding a union office (Title 29, USC, Section 504). If conviction of the crime would bar subject from holding a union office, advise local authorities upon referral. Also, the name and mailing address of the local prosecutor to which

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 17

the case was referred should be set forth in the closing LHM. When serious matters (i.e., deprivation of union member rights by force or violence) are referred to state or local authorities for prosecution, depending on availability of resources, the status of prosecution should be followed 120 days after referral. If state or local authorities decline prosecution or fail to commence prosecutive action within 120 days, rediscuss with USA and ascertain if investigation is desired. The discussion with USA should be confirmed by letter.

(3) Joint interviews may be conducted with DOL on authority of SAC and decided on a case-by-case basis. However, joint investigations with DOL may only be conducted with FBIHQ authority and will be decided on a case-by-case basis. Requests for joint investigations should be submitted by airtel, unless circumstances dictate otherwise, and the communication should contain sufficient justification for the request, the opinion of the USA, and a statement from the SAC reflecting his concurrence.

(4) FBI reports of LMRDA investigations may be disseminated to DOL subject to the provisions of Rule 6(e), Federal Rules of Criminal Procedure, on the authority of the SAC. However, dissemination should be decided on a case-by-case basis, and should be with the concurrence of the USA. Questions should be resolved by contact with FBIHQ.

EFFECTIVE: 05/10/82

159-8 | INTERVIEW OF UNION OFFICIALS

These interviews may be conducted on the authority of the SAC, provided all the following circumstances exist:

(1) Files of field office where interview is to be conducted contain no information to indicate such interview would be inadvisable.

(2) Interview is not premature and other available sources of information desired from union official have been exhausted.

(3) Interview is absolutely necessary in interest of conducting complete and thorough investigation.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 18

(4) Interview will not interfere with any other investigation of the official or union.

(5) FBIHQ is notified in advance in the event the interviewee is prominent, extremely controversial, or of such stature as to focus national attention on the investigation.

EXCEPTION: Interviews with officials of national headquarters of a union are to be conducted on a UACB basis. The UACB communication should set forth sufficient identifying data on the union official as well as recommendation as to advisability of and necessity for the interview.

EFFECTIVE: 05/10/82

||159-9| INVESTIGATIVE PROCEDURE

EFFECTIVE: 05/10/82

||159-9.1| Embezzlement of Union Funds (Title 29, U.S. Code, Section 501(c))

(1) Embezzlement investigation should develop in detail shortages in funds of labor organization and independent evidence should be secured to prove the person or persons responsible for shortage. Besides minute examination of accounting or other records of the union, persons who are indicated to have knowledge of shortages and who would be possible witnesses to establish the responsibility of certain persons for the shortages should be interviewed. Consideration should be afforded to checking records, such as bank and other business accounts, into or through which funds or other assets may have passed. Such action will be pertinent in those instances in which records of the union are altered or destroyed or for some other reason are unavailable.

(2) Since funds of health, welfare, or pension plans are separate from funds of labor unions or their locals, alleged embezzlement of such welfare funds is not considered covered by prohibition in this statute which deals solely with funds or other assets of a union. A welfare fund is established in form of a trust, the funds of which are contributed by employers, and such funds are utilized for hospitalization, insurance, and pension benefits payable

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 19

to members or their beneficiaries. As distinguished from funds of a welfare plan, funds of a union are derived from dues, initiation fees, assessments, etc., payable by employees who are union members, and union funds are disbursed to officials of the union, as well as for purchase of any material in connection with the official operation of the union. In complaints received and investigations conducted, be alert to determine facts which specify whether alleged embezzlement pertains to money or other assets considered as property of a labor union or money to be maintained in a welfare plan trust fund. (Possible violations concerning funds of a welfare plan are covered in Part I, Sections 122 and 156, of this manual.)

EFFECTIVE: 05/10/82

159-9.2 | Payment of Union Officer's Fine By Employer (Title 29, U.S. Code, Section 503(b))

(1) The investigative jurisdiction of the Department of Justice is confined to that portion of this section dealing with the payment of a fine by an employer imposed on a labor union officer or employee convicted of a willful violation of this Act. It does not prohibit an employer from paying a fine imposed on such person convicted of violating another law.

(2) Investigations concerning indicated violations of this section will closely parallel and generally will involve similar items of proof necessary to establish a criminal violation of the Labor Management Relations Act of 1947. (See Part I, Section 122, of this manual.)

EFFECTIVE: 05/10/82

159-9.3 | Prohibition Against Certain Persons Holding Office (Title 29, U.S. Code, Section 504(b))

(1) Verify from examination of court records that subject has been convicted of crime that falls within scope of this section and that conviction is not under consideration by higher court. If under appeal and final judgment not rendered, conduct no further investigation and submit closing airtel and LHM suitable for dissemination to the DOJ.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 20

(2) If conviction was under state and local statute, determine and report specific penal code citation.

(3) If the subject, prior to conviction, was active in a particular labor organization or one particular local, investigation should not be limited to determining whether he/she has continued his/her activities with respect to this particular organization or local alone; it should be determined whether he/she is active in any capacity prohibited under the Act including other labor organizations or as a labor relations consultant or officer, etc., of a group or association of employers dealing with any labor organization.

(4) Investigation should determine exactly what the subject's occupation has been since the date of his/her conviction.

(5) To determine subject's employment the following sources of information should be considered:

(a) Review the various DOL LM Reports.

(b) Contact subject's co-workers, neighbors, and associates. However, it should be noted that interviews of co-workers are prohibited during a preliminary inquiry.

(c) Contact informants and other reliable sources of information.

(d) Contact business firms from which subject has sought credit recently; however, note that contact with logical credit bureaus is subject to the provisions of the Fair Credit Reporting Act (see Part I, 62-5, of this manual).

(e) Subject to the provisions of the Right to Financial Privacy Act of 1978 (RFPA) (see Part II, 23-6, of this manual), ascertain employment by:

1. Contacting banks, credit unions, and credit card companies.

2. Determining sources of subject's income through examination of deposits to subject's bank accounts.

(6) In each case in which it is indicated the subject is employed other than by a labor organization or as a labor relations consultant, interview his/her employer to verify such employment and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 21

determine whether the subject has engaged in any prohibited activity during the period of his/her employment.

(7) If the subject is indicated to be employed by a labor organization or as a labor relations consultant, endeavor to verify such employment through independent sources, such as suggested above, rather than by direct contact with employer. This would include examination of bank records pertaining to labor organization or firm of labor relations consultants to show compensation being received by subject for services rendered. It should be noted that while access to bank records of labor organizations is not covered by the RFPA, in certain instances access to records of labor relations consulting firms may be covered by the RFPA (see Part II, 23-6, of this manual).

(8) The Department has advised that when investigation discloses a subject is presently serving a prison sentence it should be determined whether he/she is drawing a salary from a union or is carried on the records of a union as an officer. This should be developed through independent sources, such as mentioned above. In addition, a check should be made with prison officials where the subject is incarcerated to ascertain whether he/she has contact with labor organizations or management concerning union business or labor matters.

EFFECTIVE: 05/10/82

||159-9.4| Extortionate Picketing (Title 29, U.S. Code, Section 522)

Investigation concerning indicated violations of this section will parallel to some extent and will involve items of proof which are similar to those necessary to establish a criminal violation of the Labor Management Relations Act of 1947 or the Hobbs Act.

EFFECTIVE: 05/10/82

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 22

159-9.5 | Deprivation of Rights by Force or Violence (Title 29, U.S.
Code, Section 530)

Complainants alleging violations of this section should be interviewed thoroughly; particular stress should be placed upon having the complainant identify witnesses to the alleged force or violence (or threat thereof) which deprived a union member of rights guaranteed under the Act; in addition, specific information should be obtained from the complainant as to which rights of the individual have been interfered with or denied.

EFFECTIVE: 05/10/82

159-10 REPORTING REQUIREMENTS

- (1) | An initial airtel with accompanying LHM (original and three copies) should be submitted to FBIHQ within 60 days if the investigation involves LCN members or associates. The LHM should contain the preliminary opinion of the USA and sufficient identification data on the subject(s) for indexing purposes. |
- (2) | A progress letter should be submitted to FBIHQ every 180 days containing a summary of investigation conducted to date and a statement regarding investigation contemplated during the next 180 days. |
- (3) | A closing airtel should be submitted to FBIHQ with an LHM restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation. The LHM should include the final opinion of the USA. |
- (4) | If the investigation involves non-LCN groups (i.e., Asian organized crime, Sicilian Mafia, etc.), advise FBIHQ by airtel with accompanying LHM as described above within 60 days. The results and/or summary should be reported by LHM (original and three copies). |

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 23

159-11

CHARACTER - LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT
OF 1959 - INVESTIGATIVE MATTER

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 1

SECTION 160. FEDERAL TRAIN WRECK STATUTE

160-1 STATUTE

Title 18, USC, Section 1992

EFFECTIVE: 11/08/78

160-1.1 Elements

(1) "Whoever willfully derails, disables, or wrecks any train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce by any railroad; or"

(2) "Whoever willfully sets fire to, or places any explosive substance on or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of any such railroad in interstate or foreign commerce, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, with intent to derail, disable, or wreck a train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce; or"

(3) "Whoever willfully attempts to do any of the aforesaid acts or things --"

EFFECTIVE: 11/08/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 2

160-1.1.1 Other Provisions

(1) False Reports of violations of Title 18, USC, Section 1991 (Entering a Train to Commit Crime) and Section 1992 are covered by Title 18, USC, Section 35. Refer to Section 149 of this manual.

(2) Double Jeopardy - Subject cannot be tried in Federal court under this statute for same acts after being convicted or acquitted on the merits of the case in a state court.

(3) Venue lies in Federal judiciary district in which act was committed.

EFFECTIVE: 11/08/78

160-2 POLICY AND PROCEDURE

(1) Accept for investigation all cases involving violations of this act.

(2) In view of widespread public interest created by major train wreck, immediately advise FBIHQ by teletype of all such incidents.

(3) No teletype necessary regarding minor incidents in absence of some unusual circumstances which would make such action expedient.

(4) Incumbent upon the SAC to make arrangements to insure that information regarding actual or attempted train wrecks will be promptly reported to the field office so that Bureau will have effective coverage over this type of violation.

(5) The Bureau of Alcohol, Tobacco and Firearms (ATF), has jurisdiction over violations of Title 18, USC, Section 844(i), Federal Bombing Statute, which involve the malicious damaging or destruction, by means of an explosive, of property used in interstate or foreign commerce. According to Department of Justice investigative guidelines, ATF jurisdiction does not, however, apply to instances where the FBI had investigative jurisdiction in a separate substantive area prior to the enactment of the Federal Bombing Statute. This is the case insofar as explosives offenses are concerned under the Federal Train Wreck Statute (FTWS). Advise FBIHQ immediately by teletype of any attempts by the ATF to infringe upon FBI jurisdiction

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 3

under FTWS.

(6) As investigations of this act may result in sentences of capital punishment (if the action results in the death of any person), Agents making such investigation should bear in mind that all evidence used in trial will be given strictest interpretation and will be subject to closest scrutiny by trial court. Every means should be taken to obtain and preserve pertinent evidence in such form that it will withstand scrutiny of court.

(7) Immediately following receipt of information regarding violation of this statute, painstaking investigation should be made at scene.

(8) Complete crime scene search should be immediately made in vicinity of wreck in effort to locate any evidence which might be of value to investigation. Search should not be confined to immediate vicinity as tools and other objects used to wreck a train have been located as much as a half mile away from place where wreck occurred.

(9) Photographs should be taken of general scene and of any physical evidence located at scene.

(10) A thorough neighborhood investigation should be conducted in area surrounding scene of wreck.

(11) Officials of railroad police department and other employees, particularly section foremen, should be questioned regarding possibility wreck was brought about by a former or disgruntled employee of railroad company.

(12) The use of facilities of the FBI Laboratory as investigative aid should be kept continuously in mind.

(13) In many instances train wrecks brought about as result of objects placed on railroad tracks by children. Where it is learned that children may have committed act which brought about the train wreck, consideration should be given to securing cooperation of officials of schools in vicinity in order that Agents may interview students for information which might lead to identity of children responsible for wreck.

(14) Time is of essence in initiating investigations. In order that securing of evidence through crime scene search may be enhanced, sufficient number of Agents should immediately be dispatched

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 4

to scene upon receipt of information that wreck was brought about as result of violation of this statute.

EFFECTIVE: 11/08/78

||160-3 REPORT WRITING RULES

(1) Forward to FBIHQ copy of any prosecutive summary report prepared in this classification of investigation for the USA's Office, utilizing current Bureau guidelines for the preparation of such reports.

(2) No report need be forwarded under any other circumstances unless it is determined to be the most logical means to disseminate the results of investigation accumulated, or when it is decided that a report is the best means to disseminate such results to other Federal agencies through FBIHQ rather than via an LHM.

EFFECTIVE: 11/08/78

160-4 PENALTIES

Maximum - \$10,000 or 20 years, or both. When act results in death, the penalty is death or life imprisonment.

EFFECTIVE: 11/07/94

||160-5| CHARACTER - FEDERAL TRAIN WRECK STATUTE

EFFECTIVE: 11/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 1

SECTION 161. SPECIAL INQUIRIES FOR WHITE HOUSE, CONGRESSIONAL
COMMITTEES, AND OTHER GOVERNMENT AGENCIES

161-1 GENERAL INSTRUCTIONS

These instructions supplement those contained in Part II,
Section 17, of this manual.

EFFECTIVE: 12/10/91

161-2 AUTHORITY

See Part II, Section 17-1, of this manual for the
authority to conduct these investigations.

EFFECTIVE: 12/10/91

161-3 NATURE OF SPECIAL INQUIRIES

All Special Inquiries are personnel background investigations conducted pursuant to specific written request of the Office of the President or other government agencies for persons under consideration for Presidential appointments requiring Senate confirmation (PAS); other Presidential appointments (PA); staffs of the White House, National Security Council (NSC), and various congressional committees; and persons who require frequent access to the White House complex (telephone repair personnel, for example). Because of the sensitivity and/or the high level of positions involved, the highest priority consistent with the established Bureau deadline (BUDED) and absolute thoroughness are required in these investigations.

EFFECTIVE: 07/21/95

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 2

161-4 TYPES OF SPECIAL INQUIRY CASES

The type of Special Inquiry investigation will be set out by the Special Inquiry Unit (SIU), FBIHQ, in the opening communication by subclassification (161A - 161L.) (MIOG, Part II, Section 17, defines the various 161 subclassifications.) The type of Special Inquiry investigation will fall within one of four different categories, which will also be set out in the opening communication.

Set forth below in (2) are the four categories of Special Inquiry investigations which are conducted based upon the client agency being served, the level of the position for which the candidate is being considered, and other considerations:

(1) Expanded Name Check (ENC) - Consists of a search of the candidate's name through FBIHQ records systems, including the Criminal Justice Information Services Division, National Crime Information Center (NCIC), Criminal Law Enforcement Application (CLEA), Intelligence Information System (IIS) and ELSUR index; checks of the field office general and any other specialized indices (except confidential and ELSUR) in field offices where the candidate works and resides; and checks of the civil and criminal files of the United States Attorneys' (USA) offices at these same locations. ENCs may be conducted in lieu of a full-field investigation or prior to the initiation of a full-field investigation. ENCs should not be confused with "regular name checks" which are handled by the Executive Agencies, Personnel, and Administrative Support Unit, Information Resources Division, for various client agencies. Regular name checks do not include checks of USAs' offices and FBI field office indices.

(2) Full-Field Investigation (FFI) - An FFI encompasses personal interviews and a wide range of record checks and is conducted in accordance with MIOG, Part II, Section 17. The scope of the investigation will depend upon the position involved and whether or not there has been a previous background investigation (BI) concerning the candidate. However, regardless of the scope of the investigation, field offices are expected to conduct whatever additional investigation that may be necessary to thoroughly and completely address any unfavorable information or issues developed. The scope of the various FFIs is set forth below, and will also be designated by the SIU in the opening communication:

Type of FFI Requested

Scope

Level I

Covers the extent of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 3

candidate's adult life.
Level I BIs are conducted primarily on all Cabinet-level, Inspector General and senior White House staff appointments.

Level II

Covers the past fifteen years of the candidate's life or since age 18, or at least the last two years. Level II BIs are conducted for all other full-time Presidential appointees not covered by Level I and White House, National Security Council and Congressional committee staff/access positions.

Level III

Covers the past ten years of the candidate's life or since age 18, or at least the last two years. Level III BIs are primarily conducted on support, access and maintenance positions at the White House and part-time Presidential appointments.

Update Investigation

Covers the period of the candidate's life since a previous BI conducted by the FBI and when candidate has had continuous employment or access at the White House since the last BI.

(a) If the SIU can determine that another United States government agency previously conducted a BI concerning the candidate, the SIU will attempt to obtain the results of those investigation(s) prior to opening an FBI BI. The entire scope of the candidate's BI will be addressed by the FBI, but the results of the other agencies' BI will be used to supplement the 161 investigation, and duplicative leads will not be set out. The SIU will mark off items indicated on the candidate's personal history statement (Standard Form (SF) 86) that have previously been verified by another

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 4

agency and which do not need to be addressed in the FBI BI. The results of the prior BIs will also be used to identify issues that may have developed which may need to be further addressed by the FBI.

(b) If a field office develops information that a prior BI has been conducted by another agency and it appears that the SIU is not aware of this information, the field office is to immediately advise the SIU by telephone to determine if this information can be used to supplement the FBI BI.

(3) Limited Update Investigation (LUI) - Conducted at the request of the White House when an FFI has been completed within the last five years. The LUI is limited to an interview of the candidate; interviews of persons who are familiar with the candidate in a professional capacity; and appropriate records checks, i.e., FBI Headquarters and field office indices, law enforcement agencies, United States Attorneys' Offices, and appropriate state and/or federal agencies. Inquiries will also be conducted concerning any issue identified on the SF 86 or developed during the course of the LUI that has not been previously explored.

(4) Limited Inquiry (LI) - Conducted to resolve a particular issue or question usually arising from a regular name check or an ENC or after the completion of an FFI. It is not intended to be an FFI and only addresses the specific issue.

EFFECTIVE: 07/21/95

161-5 DEADLINES IN SPECIAL INQUIRY MATTERS

Investigative deadlines set by the SIU (BUEDS--the date the completed results of the investigation are expected to be received at FBIHQ) will be set from the date of the opening communication according to the following schedule; however, deadlines may be set at shorter or longer intervals to meet the needs of the client agency. The SIU will allocate as much time to the field to conduct these investigations as possible. In view of the fact that the maximum amount of available time is allotted to the field, field offices must assign sufficient personnel to assure that these cases are fully investigated, completed and reported to the SIU by the BUDED.

Subclassification or Category

BUDED Schedule

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 5

of Investigation

161 A, B, C, and L

21 Calendar Days

161 D, E, G, and I

30 Calendar Days

161 F, H, J Five-year
Reinvestigations

75 Calendar Days

161K

10 Calendar Days

LUI (Can be any 161
subclassification, except 161K)

Will be set based
upon subclassification

LI (Can be any 161
subclassification, except 161K)

Will be set by |SIU|
based upon the nature of
the inquiries to be
covered

Refer to MIOG, Part II, Section 17-3.5, for specific instructions regarding those situations in which circumstances preclude reporting the complete investigation of a case by the BUDED.

EFFECTIVE: 07/21/95

161-6 INTERVIEWS

(1) A sufficient number of interviews of persons knowledgeable about the candidate must be conducted to cover that portion of the candidate's life falling within the scope of the investigation. In most cases the principal office(s), that is, the office(s) which covers the candidate's past five years of residence and employments, will be expected to obtain the majority of these interviews. The |SIU| will indicate in the opening communication the number of interviews expected of the principal office(s). Various factors are taken into consideration when deciding if a sufficient number of interviews have been conducted during a BI. Some significant factors are the candidate's age, number of employments, length of employments and position(s) held. The following chart sets forth the general standards regarding the total number of interviews which could reasonably be expected to be conducted (including interviews in neighborhoods, at employments, of given references and associates, and of other persons developed in the investigation who

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 6

are knowledgeable of the candidate); however, field offices should ensure that each aspect of the candidate's background is covered by interviewing individuals who would be in a position to comment concerning that person as opposed to merely obtaining "numbers."

(2) Should an office determine that it cannot locate sufficient persons to be interviewed, the SIU should be immediately notified by telephone. Prompt notification is essential so the SIU can provide guidance and coordination to the offices involved in the investigation. However, when conducting interviews, field offices are expected to determine from persons interviewed the names of other knowledgeable individuals and arrange to have those persons contacted, if necessary, to fulfill the interview requirements.

Type of BI	Interview Standards
ENC	None
FFI	
Level I	25 - 30
Level II	15 - 25
Level III	10 - 15
Five-Year Reinvestigation	5 - 7
LUI	5 - 10
LI	Interviews necessary only if specifically requested by the SIU

(3) Also, field offices are expected to conduct whatever investigation is required to thoroughly and completely address any unfavorable information or issues developed during an investigation to satisfy the FBI's obligation to ensure that full and complete information is developed regarding the candidate's suitability for federal office and/or employment.

EFFECTIVE: 07/21/95

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 7

161-7 DESCRIBE NATURE OF EMPLOYING FIRM

Briefly describe the nature of the business of employing firms when reporting employment verifications if the nature of the firm is not readily apparent.

EFFECTIVE: 01/18/91

161-8 AGENCY CHECKS

In Presidential appointment cases, particular attention must be given to conducting logical and appropriate agency checks as set forth in Part II, 17-6.13, of this manual. While FBIHQ will set leads for many of these checks, the field offices are in a position to judge which additional local offices of Federal agencies, state, county or city government agencies or private sources (e.g., Better Business Bureau) also might logically have record of complaints or investigations concerning the candidate or the businesses with which the candidate is associated. Therefore, field offices should carefully analyze the candidate's background and conduct those additional checks which could develop information bearing on a candidate's character and fitness for holding a position with the Federal Government.

EFFECTIVE: 01/18/91

161-9 CHARACTER (See MIOG, Part II, 17-2, for character, classification and alpha designators.)

EFFECTIVE: 07/21/95

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 162 - 1

SECTION 162. INTERSTATE GAMBLING ACTIVITIES

162-1 OBJECTIVES

(1) Investigations under the Interstate Gambling Activities (IGA) classification are directed toward ascertaining the nature and scope of gambling activities in each field office, including the amount of illegal participation, the identity and location of layoff and illegal horse race wire facilities, the source of "line" information and manner in which it is disseminated, the type of numbers game which is prevalent in certain areas and the extent of corruption facilitating such illegal activities.

(2) Investigations under this classification are "intelligence-type" inquiries concerning certain phases of gambling activities and for conducting gambling surveys primarily for the purpose of developing all information to be considered for violations of Federal gambling statutes under the FBI's jurisdiction.

EFFECTIVE: 01/31/78

162-2 INVESTIGATIVE PROCEDURES

(1) Use of this classification should be confined to the gathering of intelligence data with respect to gambling activities and should not be used for general criminal intelligence inquiries.

(2) New cases on individual gambling subjects, developed as a result of IGA investigations, should be handled as substantive matters under the appropriate substantive gambling statutes, depending on the nature of the violations.

(3) Leads to initiate investigations may result from information provided by informants, contacts with law enforcement agencies and from public sources.

(4) It is important that each field office develop a well-rounded picture of the integral functions of major gambling operations in their respective territories. This will require that all field offices are fully aware of the make up, operational detail and control of large-scale gambling operations within their areas and

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 162 - 2

whether or not they are making use of interstate wire communication facilities for gambling purposes.

(5)

EFFECTIVE: 01/31/78

162-3

REPORT WRITING PROCEDURES

Copies of these reports are disseminated and it is essential that information included in them as furnished by confidential informants be appropriately paraphrased to protect the identities of these sources. Form FD-302 should be used to record all information of an evidentiary nature including interviews of subjects and potential witnesses whenever deemed appropriate.

EFFECTIVE: 01/31/78

162-4

CHARACTER - INTERSTATE GAMBLING ACTIVITIES

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 1

SECTION 163. FOREIGN POLICE COOPERATION

163-1 POLICY

As many Bureau cases require the investigative assistance of foreign police and intelligence agencies, the Bureau will reciprocate by conducting investigations for such agencies in the United States. FBIHQ will also arrange for investigations in the foreign countries covered by Legal Attaches on behalf of U.S. agencies and state or local police.

EFFECTIVE: 10/18/88

163-1.1 Investigative Request

Foreign Police Cooperation (FPC) requests are to be accepted in the following categories:

(1) Requests of foreign police and security agencies for coverage of investigative leads in our field offices in the United States arising out of foreign investigations.

(2) Requests for name checks of Bureau files and name or fingerprint searches of the Criminal Justice Information Services Division records.

(3) Requests by U.S. agencies abroad in matters handled by them provided they have no adequate facilities to handle such investigations themselves.

(a) Border offices should advise FBIHQ promptly upon receipt of requests for investigation and of any action taken pursuant thereto. FBIHQ need not be advised of routine requests on which individual cases are not opened.

(b) Requests received at FBIHQ from Legal Attaches and other sources will be referred to the field by FBIHQ. In the absence of additional instructions or information known to the field office which would make it inadvisable, the requested investigation should be conducted. The investigation should be limited to the request and to the coverage of logical leads growing out of the

Sensitive
PRINTED: 02/18/98

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 6-7-98 BY SP/c/ll

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 2

information developed. Recommendations for additional investigation outside the scope of the original request should be set forth in the cover letter transmitting the results of the investigation to FBIHQ and should await FBIHQ approval.

EFFECTIVE: 03/05/96

163-2 INVESTIGATIVE INSTRUCTIONS AND PROCEDURES

Since investigative requests are received by Legal Attaches or border offices (FBIHQ in some matters) the following should be secured:

- (1) Brief resume or background of case.
- (2) Descriptive data of subjects or suspects, including photographs, if available.
- (3) Pertinent information that will aid investigation.
- (4) A concise statement of what information or investigation is desired.

EFFECTIVE: 10/18/88

163-2.1 Opening Foreign Police Cooperation (FPC) - General Criminal Matters (GCM)

- (1) The following guidelines should be adhered to in all 163A (FPC-GCM) investigations:

(a) When information received by the FBI from a foreign police agency contains no substantive U.S. statutory violation, but the submitting agency requires FBI assistance in investigating a criminal offense which occurred in the host country, the Legat should first assess the nature of the crime and open a 163 case in accordance with existing guidelines, i.e., 163A, 163B, etc.

(b) When a host government police agency has provided details which appear to warrant statutory investigative

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 3

interest by the FBI, but are of no further interest to the host government, Legats should submit same in a detailed communication to the appropriate field office(s). If a field office opens a substantive case and assumes origin, the Legat providing the initial information should be so advised. To facilitate transmission of initial information, Legats should submit an initial communication under the zero (miscellaneous) classification of the alleged violation, e.g., 7-0, 196-0, 281-0, etc.; or if the violation is not well defined, the 163-0 classification.

(c) When a foreign police/security agency provides information requiring investigative lead coverage on their behalf which also discloses a potential/existing violation of U.S. federal statutes or investigative interest within FBI purview, Legats should submit same under the appropriate 163 classification, with the Legat assuming office of origin status to coordinate the FPC aspects of the investigation. This does not preclude a field office from initiating a separate spin-off case under the substantive violation, if circumstances warrant same; however, results of Legat's inquiries should be reported under the appropriate 163 classification.

(d) Noncompulsory Letter Rogatory and Mutual Legal Assistance Treaty requests facilitated through the Office of International Affairs (OIA), DOJ, from a respective Ministry of Justice/Interior in the host country and subsequently furnished to FBIHQ for investigation by the field will be managed by the International Relations Section (IRS), Criminal Investigative Division (CID), according to the above provisions.

EFFECTIVE: 03/08/96

163-2.1.1 Letter Rogatory Process

(1) OIA, DOJ, will send FBI-designated requests of a judicial nature, known as "letters rogatory" or "compulsory investigations/inquiries," directly to the AUSA with instructions for the AUSA to contact the appropriate federal law enforcement agency, which will include the FBI, to assist with the investigation. In the past, these requests were received in the International Relations Section (IRS), Criminal Investigative Division (CID), and sent to each field office with instructions to coordinate the request with the AUSA in the same district.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part. I

PAGE 163 - 4

(2) Upon receipt of the request from the AUSA, each office is instructed to conduct a global and HQ indices search before opening the case. If the search reveals a no record response, the field office should open the matter as a 163A and assume origin for the investigation. If the indices search reveals an office has already opened the matter, each office will then use the existing universal case file number with the originating office as office of origin. Also, if the indices search reveals an ongoing investigation under a different classification, the office of origin should contact the office where the investigation is being conducted to coordinate with the appropriate desk before opening a 163A case.

(3) Upon completion of the investigation, each field office will report the results to the AUSA in your district which provided the tasking, not the office of origin. The AUSA will be responsible for disseminating your final product, i.e., letterhead memorandum or FD-302 to OIA for the foreign government requesting the Letter Rogatory/Mutual Legal Assistance Treaty (MLAT) request.

(4) To ensure that foreign fugitive cases meet the requirements for issuance of a provisional arrest warrant and subsequent extradition, no field investigation in these matters is to be undertaken prior to receipt of FBIHQ authorization except in most urgent cases. Legats or offices with border liaison may set out such leads with appropriate background and descriptive information but with the caveat that no investigation is to be undertaken until FBIHQ, IRS, authorization is received. FBIHQ will coordinate the request with DOJ, OIA, to ensure that the treaty and other international considerations are met.

Additionally, FBIHQ will check with Interpol Washington to determine if a parallel request for a fugitive investigation had been received by the U.S. National Central Bureau (USNCB) of Interpol and is being handled by another agency. If another agency is already conducting the fugitive investigation, interested Legats and field offices will be advised to discontinue. Any office locating a foreign fugitive is to immediately advise FBIHQ, IRS, and the local USA's Office. The USA's Office should be requested to make immediate contact with DOJ and OIA. (See 163-5, 163-5.2.)

(5) For your information, requests for investigations that do NOT require compulsory process will still be directed to IRS, FBIHQ. IRS, CID, will remain as office of origin in matters which are conducted solely on a reciprocal basis pursuant to a request for assistance by the foreign government via OIA. FBIHQ will coordinate

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 5

responses with the appropriate field office on behalf of OIA, and responses will be directed to IRS and subsequently furnished to OIA.

(6) All recipients are reminded that these changes pertain only to 163A FPC-GCM investigations/inquiries and do not change reporting procedures relevant to 163B (INTERPOL), 163C (DOMESTIC SECURITY/DOMESTIC TERRORISM), or 163E (NAME TRACE) cases.

EFFECTIVE: 03/08/96

163-3 REQUESTS FOR DOMESTIC SECURITY/TERRORISM INVESTIGATIONS

Requests for investigation by agencies of a foreign government concerning domestic security/terrorism matters are to be handled under the caption of "Foreign Police Cooperation." Bureau assistance will be limited to checks of Bureau files as well as records of state, local and Federal law enforcement agencies.

EFFECTIVE: 10/16/90

163-4 REQUESTS FOR NAME AND FINGERPRINT CHECKS

Requests received from a foreign police or intelligence agency for a search of Bureau files and/or a search of Bureau fingerprint records should be designated for the Executive Agencies Subunit, Information Resources Division (IRD). Requests for a search of Bureau fingerprint records should only be designated to the Criminal Justice Information Services Division. Requests for a search of Bureau files and/or a check of fingerprint records, which also includes a request for field office investigation, should be designated to the attention of the International Relations Section, CID.

EFFECTIVE: 03/05/96

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 6

163-5 FOREIGN FUGITIVES

A foreign fugitive cannot be arrested in the United States based on the foreign warrant alone. So-called international arrest warrants are not valid in the United States. Current United States law requires that a foreign government must request the arrest of a fugitive from that country by formal diplomatic note and agree to extradite the fugitive. The fugitive must then be located in a particular Federal judicial district, and, thereafter, a United States provisional arrest warrant must be issued in that district for his/her arrest prior to the actual arrest.

EFFECTIVE: 10/16/90

| 163-5.1 Policy|- Moved to 163-2.1.1|

EFFECTIVE: 03/08/96

| 163-5.2 Case Captions|(See 163-2.1.1.)|

All communications in Foreign Police Cooperation matters involving foreign fugitives will contain the name of the subject and aliases, the character, and the words "Foreign Fugitive," followed by the name of the foreign country concerned. For example:

JOHN DOE, aka
Sam Smith;
FOREIGN POLICE COOPERATION
FOREIGN FUGITIVE - FRANCE
OO: FBIHQ

EFFECTIVE: 03/08/96

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 7

163-6 REPORTING

The reputation of the Bureau within foreign agencies will be directly affected by the manner in which FPC cases are handled. The quality of the investigations, the promptness with which they are conducted, and the accuracy and completeness of the reporting of the results thereof will come directly under the scrutiny of officials of foreign police and security agencies. It is, therefore, incumbent upon each Agent to whom a case of this type is assigned to investigate it promptly and thoroughly and to report the results accurately and completely.

(1) All communications, except LHMs, transmitting a Foreign Police Cooperation matter should include "Foreign Police Cooperation" in the caption, along with the correct investigative program according to the alpha designator, and should be marked for the attention of the particular unit and division that is handling same.

The alpha designators and an explanation of each are as follows: (See MAOP, Part II, 3-1.1, 3-1.2, 10-23; Correspondence Guide-Field, 1-17.1.)

(a) 163A-Foreign Police Cooperation - General Criminal Matters should be marked to the attention of the International Relations Section (IRS), CID.

(b) 163B-Foreign Police Cooperation - International Criminal Police Organization (Interpol) should be marked to the attention of the IRS, CID.

(c) 163C-Foreign Police Cooperation - Terrorism, should be marked to the attention of the Domestic Terrorism Unit, National Security Division.

(d) 163E-Foreign Police Cooperation - Bureau Files and Criminal Justice Information Services Division - Information Requests should be marked to the attention of the Executive Agencies Subunit, Information Resources Division (IRD).

(2) FBIHQ has determined that several foreign police agencies prefer the use of an FD-302 or handwritten statement in lieu of the previously required LHMs when testimony of the investigating Agent/Officer is expected. The FD-302 and handwritten statements have been accepted in foreign courts without further testimony of the investigator, thus, precluding excessive costs associated with travel

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 8

and lodging which must be borne by the FBI. Therefore, use of above communications are approved, noting that use of LHMs are still preferred in noncompulsory cases since they provide a reporting flexibility beyond that of an FD-302. All provisions surrounding the protection of sources and disclosure of third agency information furnished to the foreign governments still apply.

(a) Legats and field offices are advised that lead coverage for federal government executive agencies within the Washington, D.C., metropolitan area should be directed to the Washington Metropolitan Field Office.

(b) Legats should obtain all possible identifying information on subjects and witnesses from the foreign police agencies so that field offices are able to readily identify, locate, and interview same. Legats are to ensure that indexing of pertinent subjects, et al., is entered into FOIMs.

(3) Results of investigation should be submitted via LHM or FD-302 (original and five copies) to the office of origin.

(4) Do not use the character "Foreign Police Cooperation" in LHMs. The caption should be limited only to the subject(s) and aliases and substantive character (i.e., Financial Institution Fraud). (See Correspondence Guide-Field, 2-5.5.6; Correspondence Guide-HQ, 12-7(5).)

(5) Mark nondissemination copies of documents with proper classification level (Top Secret, Secret, Confidential) and authority and OADR or declassification information. Mark dissemination copies with the classification level only and omit authority and OADR or declassification information. (See Correspondence Guide-HQ, 12-1, 12-3, 12-7(7).)

(6) No classified information may be included when the LHM is submitted through Interpol channels. Dissemination of classified information generally is made to foreign governments when information disseminated may serve U.S. national security or policy interests.

(7) The property statement should appear on LHMs being disseminated to a foreign government. (See Correspondence Guide-FBIHQ, 12-2, 12-4; Correspondence Guide-Field, 2-5.3, 2-5.5.2.)

(8) Do not include the names of Agents and law enforcement officers in the LHM. Agents and law enforcement officers

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 9

| should be identified in the cover communication.

| (9) | Information from confidential sources and techniques must be paraphrased in such a way as to fully protect their identities. When reporting information from an informant, do not use "T" symbols or the words "source" or "informant." The phrase "investigation has disclosed" or similar wording should be used.

| (10) | Personal addresses in the United States and Social Security Numbers are to be omitted on LHMs unless they are pertinent to the inquiry.

| (11) | If the request concerns information from a local, state, or other federal government agency, include in the LHM only the information which that agency is willing to have furnished to the interested foreign government. A statement should be included in the cover communication indicating authority has been secured and the agency has agreed to such dissemination.

| (12) | In applicant-type investigations for foreign agencies, no reference should be made to the applicant's loyalty to the United States. In such cases, inquiries should be made as to whether the applicant is loyal to democratic principles.

| (13) | Signed statements in foreign countries should be taken only when specifically requested or when good judgment dictates. If feasible, secure a foreign police officer to witness the signing of the statement. (See Part II, Section 23-8.2 (8), (9), and (10) of this manual.)

| (14) | Results of routine investigation conducted by FBI field offices on behalf of a foreign government must reach FBI Headquarters within 60 days from the date of the Bureau communication which forwarded the request, unless a shorter deadline is specified. Legal Attaches are given 90 days to respond.

| (15) | Avoid using dual characters. If a foreign police cooperation request develops into a substantive Bureau case, the character "Foreign Police Cooperation" should be dropped and the proper character used.

| (16) | All Bureau instructions concerning investigations and report writing are applicable to this classification, unless specifically modified herein.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 10

EFFECTIVE: 03/08/96

|| 163-7 RULE 6(E) MATERIAL

Grand Jury material should not be disclosed to representatives of foreign governments. If foreign government representatives cannot conduct the investigation without Grand Jury material disclosure, the field office from which the lead originated should have the attorney for the government in the district where the Grand Jury was convened petition the court for a court order directing disclosure pursuant to Rule 6(e) (3) (C) (i).|

EFFECTIVE: 10/18/88

|| 163-8 PRIVACY ACT

(1) The Privacy Act of 1974 does not preclude dissemination of information to a foreign government. The act's coverage is limited to records in a system of records containing retrievable information about U.S. citizens or aliens lawfully admitted for permanent residence in the United States. The Privacy Act has no application if records sought to be reviewed do not contain personally identifiable and retrievable information. The FBI Central Records System encompasses all centralized records of not only FBI Headquarters, but our field and Legat offices.

(2) Dissemination of information from FBI Central Records Systems to a foreign government is proper when the following conditions have been met:

(a) Information is disclosed to a legitimate agency of a foreign government;

(b) The FBI determines the information is relevant to the agency's responsibilities;

(c) Dissemination serves the best interests of the U.S. Government;

(d) The purpose in making the disclosure is compatible with the purpose for which the information was collected.|

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 11

EFFECTIVE: 10/18/88

163-9 RIGHT TO FINANCIAL PRIVACY ACT

(1) The Right to Financial Privacy Act controls the U.S. government's access to financial information in financial institutions. Foreign governments frequently request access to the financial records of individuals in the United States in connection with criminal inquiries. A request from a foreign government for financial records must emanate from a foreign adjudicative body (foreign court) in the form of a letter of request. Upon receipt of such a request from a foreign government, the Department of Justice, Office of International Affairs, seeks a court order under Title 28, USC, Section 1782. The order directs a financial institution to deliver the information to the Department of Justice for transmittal to the foreign government.

(2) Accordingly, requests emanating from foreign governments for financial records maintained in U.S. financial institutions, should be submitted through diplomatic channels directly to the Department of Justice, Office of International Affairs, or may be forwarded to FBIHQ, Criminal Investigative Division, International Relations Section.

EFFECTIVE: 03/05/96

163-10 INTERNATIONAL CRIMINAL POLICE ORGANIZATION (INTERPOL)

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 12

| 163-10.1 Background | (See Legal Attache Manual, 6-9.) |

(1) Interpol has a membership composed of 147 countries. It exists for the purpose of facilitating international criminal investigations. By providing a communications channel among the member countries, Interpol provides a full range of law enforcement services from records checks to the accomplishing of complex criminal investigations. Interpol will, upon request, transmit a worldwide All Points Bulletin (APB) or issue an international wanted notice to locate and effect the arrest of international fugitives.

(2) Interpol member nations will only cooperate in criminal matters, which include acts of international terrorism. No classified, source sensitive, or foreign counterintelligence information will be accepted for investigation.

(3) The constitution of Interpol strictly prohibits involvement by the organization in political, religious, racial, or military matters.

(4) The U.S. National Central Bureau (USNCB) of Interpol is located within the Department of Justice and is operated jointly by the Departments of Justice and Treasury with a membership composed of representatives of the FBI; Bureau of Alcohol, Tobacco and Firearms (BATF); Drug Enforcement Administration (DEA); Internal Revenue Service (IRS); United States Marshals Service (USMS); Postal Inspection Service; Secret Service; Office of the Inspector General, Department of Agriculture; and the Department of State.

(5) The USNCB of Interpol has access to and is able to check many electronic indices and data bases through in-house terminals. These include: FBI National Crime Information Center (NCIC); FBI Criminal History Records (Interstate Identification Index); Drug Enforcement Administration (DEA) Narcotic and Dangerous Drug Information System (NADDIS); U.S. Treasury Enforcement Computer System (TECS); USNCB Interpol Case Tracking System (ICTS); Immigration and Naturalization Service (INS) records; all drivers' license and vehicle registration records of 50 states.

(6) | The | responsibility for Interpol matters | is handled by the International Relations Section (IRS), CID. The IRS is the Bureau's designated point of contact with the USNCB. |

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 13

EFFECTIVE: 03/05/96

163-10.2 Policy (See Legal Attache Manual, 6-9.)

(1) FBI requests for foreign investigation of matters involving substantial FBI interest in all FBI Programs will be handled by our Legal Attaches (Legats) unless there is an excepted concurrence of FBI Headquarters (FBIHQ) and the appropriate Legat. All matters under our National Foreign Intelligence Program; sensitive matters, such as source protection; classified matters; and civil rights matters are to be handled by our Legats.

(2) Where the FBI is not formally accredited and where the FBI does not have formal representation, investigative requests from the FBI to a foreign country will be handled by Bureau representatives at Interpol or the Department of State.

(3) With the concurrence of the appropriate Legat, or at his/her request, simultaneous criminal FBI investigative leads in multiple countries, requiring expeditious handling, will be handled by Interpol.

(4) Foreign criminal record check requests involving auto registration, drivers' licenses, birth records, passports, outstanding warrants (wants), and criminal history (arrest records) in which the request requires no additional investigation will, for the most part, be handled by Bureau representatives at Interpol.

(5) The handling of all requests by foreign countries for criminal investigative assistance to the FBI will be left to the discretion of our Legats.

(6) Legats may wish to handle matters from foreign governments, which are insubstantial, through direct contact with the foreign Interpol channel.

(7) Frequently, situations arise whereby foreign police entities request Legat assistance and/or involvement on their investigations and simultaneously request assistance in the same investigations through Interpol, USNCB, Washington, D.C. In those situations where the Legat suspects that dual requests are likely to occur, Legats are requested to ensure that the foreign police entities indicate on Interpol communications that there has been previous coordination with the Legat and/or investigative action by the FBI in

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 14

the U.S. This will ensure the matter is handled by the FBI representative to Interpol, as opposed to some other agency representative.

(8) FBI field offices on routine investigative matters are to communicate with Interpol, USNCB, via International Relations Section (IRS), Criminal Investigative Division (CID), FBIHQ. No direct communication to the USNCB by the National Law Enforcement Telecommunications Systems (NLETS) or other means is to be undertaken by Bureau field offices, except in urgent matters by telephone to the FBI representative at the USNCB. Telephonic inquiries in such instances must be confirmed by teletype to FBIHQ. State and local law enforcement agencies within the U.S. may contact the USNCB via NLETS or other available systems to request investigative assistance. Legats can directly access USNCB, Washington, D.C., via their Embassy's telecommunications system. The FBI representative at the USNCB will, upon receipt of a request by telex, set forth leads to any foreign NCB on behalf of the Legat. Legats may, at their discretion, utilize the Interpol NCBs in the various countries in their territories to assist them in covering criminal leads.

(9) All communications in reply to Interpol requests or from the FBI requesting Interpol assistance will be by LHM with a cover electronic communication, unless circumstances dictate the use of a teletype. Regardless of character, the titles of all communications concerning Interpol-related matters should contain the additional character "Interpol," and when directed to FBIHQ, should be to the attention of IRS, CID.

(10) Requests from field offices for Interpol record checks may be submitted to FBIHQ to the attention of IRS, CID, by LHM or, in urgent cases, by teletype. All available identifying data regarding the individual should be included in the LHM, along with a statement indicating the type of criminal activity under investigation. Such a statement is required to ensure that the request falls within the Interpol Constitutional guidelines. Such record checks will include Interpol files at USNCB, the General Secretariat in Lyon, France, and, when requested, specific Interpol member countries.

EFFECTIVE: 03/05/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 15

163-10.3 International Notices

(1) International Notices are published by Interpol to provide the police services of all member countries, via their NCBs, with information about persons and property. The Interpol General Secretariat validates these notices every five years.

(2) The six types of International Notices are described as follows:

(a) RED NOTICE - Red Notices request the arrest of a subject with a view to extradition. These notices provide details of the charge against a subject, along with warrant information and prior criminal record. The USNCB requests the Interpol General Secretariat to issue Red Notices only after review and approval of the Department of Justice, Office of International Affairs.

(b) BLUE NOTICE - Blue Notices request information regarding a person, such as his/her criminal record or verification of his/her identity. They are also used to locate missing persons, locate a criminal who has not been fully identified, or to locate a wanted person whose extradition may be requested.

(c) GREEN NOTICE - Green Notices disseminate information about persons who have or are likely to commit crimes affecting several countries and who may be in those countries. Specific details are given regarding prior arrests and convictions. Green notices are issued concerning only important international criminals.

(d) BLACK NOTICE - Black Notices provide information about unidentified bodies of deceased persons who were probably using false identities. Photographs of the body, description, fingerprints, and dental charts, as well as other identifying information is included.

(e) STOLEN PROPERTY NOTICE - Stolen Property Notices provide information about stolen property or recovered property suspected of being stolen. In the case of works of art or cultural objects, a photograph or detailed description is included along with facts concerning the theft or recovery.

(f) MODUS OPERANDI NOTICE - Modus Operandi Notices provide information concerning the modus operandi, procedures and hiding places used by international criminals. These notices also serve to centralize such information at the Interpol General

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 16

Secretariat to assist in analyzing worldwide criminal activity.

(3) All requests for the issuance of an Interpol International Notice will be forwarded to FBIHQ, Attention: International Relations Section, CID, in LHM form with a cover communication. The cover communication will set forth sufficient background and justification for such a request to permit FBIHQ to make a determination whether the request should be forwarded to Interpol, USNCB. Include in the cover communication the name of the Assistant United States Attorney handling the case and his/her opinion regarding extradition. In UFAP cases, list local warrant information first and list the name, address, and telephone number of the local prosecutor.

(4) LHMs requesting the issuance of a Red Notice will contain the usual case title, a brief summary of the investigation to date, and the following numbered and captioned paragraphs:

1. Present family (last) name
2. Family name at birth or previous family name
3. Forenames
4. Aliases and nicknames
5. Sex
6. Date of birth
7. Place of birth
8. Father's name
9. Mother's maiden name
10. Nationality (indicate confirmed or not confirmed)
11. Identity (indicate verified or not verified)
12. Occupation
13. Areas, places, or countries subject may visit
14. Date of photograph
15. Identity documents (type, number, date and place of issue)
16. Detailed physical description
17. Characteristics (habits, mannerisms, etc.)
18. Languages spoken
19. Warrant information (this information must be provided for each and every warrant outstanding for the subject)
 - a. Warrant number(s)
 - b. Date(s) of issue
 - c. Court(s) of issue
 - d. Federal or state criminal citation(s) (i.e., Title 18, USC, Section 659)
 - e. Type(s) of offense (i.e., Theft from

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 17

Interstate Shipment)

if already convicted

facts of the case and his/her official address and telephone number

modus operandi)

21. Name(s) of accomplice(s).

sentence)

(5) Three clear copies of the subject's photograph must accompany the LHM. FBIHQ will automatically provide Interpol a copy of subject's fingerprints from Criminal Justice Information Services Division records.

(6) LHMs requesting Blue or Green Notices should follow the same format as for Red Notices with the omission of nonapplicable information.

(a) Blue or Green Notice requests concerning criminals who have not been fully identified or who are wanted and whose extradition may be requested should substitute the following paragraph information:

1. Family name
2. Forenames
3. Date and place of birth (indicate if verified)
4. Father's name
5. Mother's maiden name
6. Marital status
7. Spouse's name
8. Identity documents (type, number, date and place of issue)
9. Occupation
10. Nationality (indicate if verified or not verified)
11. Identity (indicate exact or uncertain)
12. Aliases and nicknames
13. Previous addresses with dates
14. Types of crimes committed and modus operandi
15. Detailed physical description
16. Languages spoken
17. Reason for and date of last arrest and date

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 18

of release (Blue Notice requests concerning missing persons should contain a detailed account of the disappearance)

18. Previous convictions (date, place, charge, sentence)

19. Address to which subject intended to go after release

(b) Dental charts, if available, should accompany missing person Blue Notice requests in addition to photographs.

(c) Offices contemplating the submission of a request for a Stolen Property Notice involving works of art or cultural property should communicate with the IRS, CID, for details of the descriptive information required for such notices.

(7) The information contained in LHMs requesting the issuance of International Notices will be subjected to close scrutiny and verification at FBIHQ, and LHMs requiring changes will be returned to the field for resubmission.

(8) Upon issuance of an Interpol International Notice, a copy will be provided to the office of origin which will be responsible for the immediate notification of FBIHQ by LHM of any change in the notice information, including the apprehension of a fugitive or the recovery of all or part of any stolen property. All Legats will be provided a copy of Interpol International Notices issued at the request of the Bureau and will be notified by FBIHQ of modifications or cancellations thereto.

EFFECTIVE: 03/05/96

163-11 OFFICE OF ORIGIN (See MAOP, Part II, 10-16.2(7).)

(1) Legal Attaches will be the office of origin (OO) in all 163 cases which do NOT require Bureau assistance/input.

(2) International Relations Section (IRS), CID, will continue to function as the originating office on Foreign Police Cooperation requests from the foreign law enforcement representatives based in Washington, D.C. (163A); on requests made by foreign law enforcement through Interpol (163B); and on foreign requests made through the Office of International Affairs (OIA/DOJ). IRS, CID, will continue to assist operational leads through the Interpol channel.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 19

(a) The Executive Agencies|Subunit|will handle all 163E record check requests to be conducted at FBIHQ. The originator of the request will be the OO.

(b) The Bureau Applicant|Investigations|Unit (BAIU) will handle (163E) applicant/background investigative requests in the United States on behalf of foreign governments. These applicant/background foreign government investigative requests are on United States and non-United States persons who are either themselves or are relatives of persons who are being considered for sensitive positions in the foreign government and require security clearances. The originator of the request will be the OO.

(c) The Domestic Terrorism Unit,|National Security|Division, will retain OO status in all 163C Domestic Security/Terrorism (DS/T) investigations.

EFFECTIVE: 03/05/96

||163-12| CHARACTER - FOREIGN POLICE COOPERATION

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 1

SECTION 164. CRIME ABOARD AIRCRAFT

164-1 BACKGROUND

(1) As a result of several aggravated incidents aboard commercial aircraft during 1961 which included the first actual hijacking of an aircraft in the United States, Congress on September 5, 1961, passed an amendment (Public Law 87-197) as embodied in the Federal Criminal Statutes as Title 49, USC, Section 1472. This statute specifically designated the FBI to investigate violations of aircraft piracy and related criminal acts as contained in subsections (i) through (n) of this statute. Title 49, U.S. Code, Chapter 465, addresses crimes committed aboard aircraft to include aircraft piracy, interference with flight crews, carrying weapons or explosives aboard aircraft and false information and threats. Chapter 465 replaces subsections (i), (j), (l), (m), and (n) of Title 49, USC, Section 1472 (Public Law 103-272), which also moved the section concerning the FBI's exclusive jurisdiction over those offenses from subsection 1472 (o) to Title 28, USC, Section 538.

(2) As a result of several incidents where accidents involving common carriers resulted from operators being impaired by alcohol or drugs, Title 18, USC, Sections 341, 342, and 343, were enacted to address the obvious concern for public safety.

(3) Executive Order 12564, dated 9/15/86, entitled "Drug Free Federal Workplace," facilitated drug screening of airline pilots.

EFFECTIVE: 12/23/96

164-2 STATUTES

Title 49, USC, Section 146314 or Chapter 465 and Title 28, USC, Section 538; Title 18, USC, Sections 341, 342, 343; and Executive Order 12564.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 2

EFFECTIVE: 12/23/96

164-2.1 Section 46502. Aircraft Piracy

"(a) IN SPECIAL AIRCRAFT JURISDICTION.--(1) In this subsection--

"(A) 'aircraft piracy' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

"(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

"(2) An individual committing or attempting to commit aircraft piracy--

"(A) shall be imprisoned for at least 20 years;
or

"(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life."

"(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION--(1) An individual committing or conspiring to commit an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States--

"(A) shall be imprisoned for at least 20 years;
or

"(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

"(2) There is jurisdiction over the offense in paragraph (1) if--

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 3

"(A) a national of the United States was aboard
the aircraft;

"(B) an offender is a national of the United
States; or

"(C) an offender is afterwards found in the
United States.

"(3) For purposes of this subsection, the term
'national of the United States' has the meaning prescribed in Section
101(a) (22) of the Immigration and Nationality Act (8 U.S.C.
1101(a) (22))."

EFFECTIVE: 12/23/96

164-2.2 Section 46504. Interference With Flight Crew Members
and Flight Attendants

"An individual on an aircraft in the special aircraft
jurisdiction of the United States who, by assaulting or intimidating
a flight crew member or flight attendant of the aircraft, interferes
with the performance of the duties of the member or attendant or
lessens the ability of the member or attendant to perform those
duties, shall be fined under title 18, imprisoned for not more than
20 years, or both. However, if a dangerous weapon is used in
assaulting or intimidating the member or attendant, the individual
shall be imprisoned for any term of years or for life."

Public Law 101-164, passed 11/21/89, amended Section 404
of the Federal Aviation Act of 1958 by prohibiting smoking on domestic
airline flights scheduled for six hours or less. Violations of these
restrictions are investigated and reported to the Flight Standards
Group of the FAA and not the FBI. However, it is possible that a
violation of Section 46504 (formerly 1472(j)) could occur, should an
attempt to enforce the "No Smoking" restriction by a flight crew
member, or attendant, evolve into an assault, intimidation or threat
towards that crew member or attendant. Should such an incident occur,
FBI investigation would be warranted.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 4

EFFECTIVE: 12/23/96

| 164-2.3 | Section 46505. | Carrying a Weapon or Explosive on an Aircraft

"(a) DEFINITION.--In this section, 'loaded firearm' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

"(b) GENERAL CRIMINAL PENALTY.--An individual shall be fined under title 18, imprisoned for not more than ten years, or both, if the individual--

"(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

"(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

"(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

"(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.
--An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 15 years, or both.

"(d) NONAPPLICATION.--Subsection (b)(1) of this section does not apply to--

"(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

"(2) another individual the Administrator of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 5

Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

"(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon."

EFFECTIVE: 12/23/96

|164-2.4| Section|46506. Application of Certain Criminal Laws to Acts on Aircraft

"An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that--

"(1) if committed within the special maritime and territorial jurisdiction of the United States (as defined in Section 7 of Title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111, or Chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

"(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code, sec. 22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both."

(1) As enumerated in Title 49, USC, |46506, |Title 18, defines the following violations:

Section 113.	Assault
Section 114.	Maiming
Section 661.	Embezzlement and Theft
Section 662.	Receiving Stolen Property
Section 1111.	Murder
Section 1112.	Manslaughter
Section 1113.	Attempt to Commit Murder or Manslaughter
Section 2111.	Robbery
Section 2241.	Aggravated sexual abuse
Section 2242.	Sexual abuse
Section 2243.	Sexual abuse of a minor or ward

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 6

Section 2244. Abusive sexual contact
Section 2245. Sexual abuse resulting in death
(See MIOG, Part I, 45-2 and 70-2.)

(2) As referred to in Title 49, USC, Section 46506,
Section 22-1112, D.C. Code states:

"(a) It shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person, or to make any lewd, obscene, or indecent sexual proposal, or to commit any other lewd, obscene, or indecent act in the District of Columbia, under penalty of not more than \$300 fine, or imprisonment of not more than ninety days, or both, for each and every such offense.

"(b) Any person or persons who shall commit an offense described in subsection (a), knowing he or she or they are in the presence of a child under the age of sixteen years, shall be punished by imprisonment of not more than one year, or fined in an amount not to exceed \$1,000, or both, for each and every such offense."

EFFECTIVE: 12/23/96

164-2.5 Section 46507. False Information and Threats

"An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual--

"(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

"(2) (A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

"(B) has the apparent determination and will to carry out the threat."

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 7

EFFECTIVE: 12/23/96

| 164-2.6 | Moved to 164-2.1 |

EFFECTIVE: 12/23/96

| 164-2.7 | Title 28, USC, Section 538. Investigation of Aircraft
Piracy and Related Violations

"The Federal Bureau of Investigation shall investigate any
violation of Section 46314 or Chapter 465 of Title 49." |

EFFECTIVE: 12/23/96

| 164-2.8 | Venue

Venue provisions are contained in the Federal Rules of
Criminal Procedure and Chapter 211 of Title 18, U.S. Code. |

EFFECTIVE: 12/23/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 8

164-2.9 Title 18, U.S. Code, Sections 341, 342, and 343.
Operation of a Common Carrier Under the Influence of
Alcohol or Drugs

(1) Section 341 - defines a common carrier to include an
air common carrier.

(2) Section 342 - states "whoever operates or directs
operation of a common carrier while under the influence of alcohol or
any controlled substance, as defined in Section 102 of the Controlled
Substances Act (Title 21, U.S. Code, Section 802), shall be:"

(a) imprisoned not more than fifteen years

(b) or fined under this title

(c) or both

(3) Section 343 - states for the purposes of this
statute:

(a) an individual with a blood alcohol content of
.10 percent or more shall be presumed to be under the influence of
alcohol; and

(b) an individual shall be presumed to be under the
influence of drugs if the quantity of the drug in the system of the
individual would be sufficient to impair the perception, mental
processes, or motor functions of the average individual.

EFFECTIVE: 04/19/91

164-2.10 Executive Order 12564 - Drug-Free Workplace

(1) Executive Order 12564 facilitates the random drug
screening of airline pilots.

(2) The Order specifically states "Drug testing shall not
be conducted pursuant to this Order for the purpose of gathering
evidence for use in criminal proceedings."

(3) Prosecution of a pilot or crew member cannot be based
solely on the results of air-carrier drug-screening as mandated under
Executive Order 12564.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 9

EFFECTIVE: 04/19/91

164-3 DEFINITIONS (Title 49, U.S. Code, Section 46501)

"(1) 'aircraft in flight' means an aircraft from the moment all external doors are closed following boarding--

"(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

"(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

"(2) 'special aircraft jurisdiction of the United States' includes any of the following aircraft in flight:

"(A) a civil aircraft of the United States.

"(B) an aircraft of the armed forces of the United States.

"(C) another aircraft in the United States.

"(D) another aircraft outside the United States

--
"(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

"(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

"(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 10

"(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

"(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight--

"(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

"(B) is an accomplice of an individual referred to in subclause (A) of this clause."

EFFECTIVE: 12/23/96

164-4

STATUTORY INTERPRETATION

(1) As used in the statute, the term "piracy" is to be distinguished from Title 18, USC, Section 1651, where it is referenced to the law of nations. The elements of aircraft piracy are specifically stated within the statute.

(2) Accordingly, acts which would be covered by Title 18, USC, Section 7 (5) (crimes within the special maritime and territorial jurisdiction of the United States) should such acts occur geographically within the special maritime and territorial jurisdiction of the United States, are by the present statute made criminal regardless of their geographical situs. It is conceivable that a single act could be in violation of both sections of the USC.

(3) In connection with the term "within the special aircraft jurisdiction of the United States" as set forth in Title 49, USC, Section 46502, 46504, 46506, and the term "special aircraft jurisdiction of the United States" as defined in Title 49, USC, Section 46501, the FBI has investigative jurisdiction insofar as violations in connection with the following aircraft are concerned:

(a) civil aircraft of the United States no matter where in the world they are in flight;

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 11

(b) aircraft of the armed forces of the United States no matter where in the world they are in flight;

(c) foreign aircraft which actually land in the United States.

EFFECTIVE: 12/23/96

164-5 ROLE OF THE FEDERAL AVIATION ADMINISTRATION (FAA)

Title 49, USC, Section 44903 (e) provides that "The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under Section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection."

EFFECTIVE: 12/23/96

164-6 MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL AVIATION ADMINISTRATION AND THE FEDERAL BUREAU OF INVESTIGATION

(1) Basic policy with regard to the FBI's handling of aircraft hijacking incidents centers on a memorandum of understanding between the FAA and FBI agreed upon officially on 2/26/75. The "Memorandum of Understanding Between the Federal Aviation Administration and the Federal Bureau of Investigation" (MOU) is contained in its entirety in Part II, Section 18, of this manual.

(2) Part II of the MOU, entitled "Designation of Authority" states:

"A. When the aircraft is in flight.

"1. When an aircraft is in flight, that is from the moment when all external doors are closed following embarkation, until the moment when one such door is opened for disembarkation, the

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 12

pilot in command of the aircraft shall have normal operational control of the flight.

"2. The Administrator of the Federal Aviation Administration has exclusive responsibility for direction of any law enforcement activity involving an offense under 902 (i) or 902 (n) of the Federal Aviation Act of 1958, as amended.

"3. As appropriate, in each case involving such an offense, the designated official of the Federal Aviation Administration shall request the assistance of the designated official of the Federal Bureau of Investigation.

"4. After fully considering the expressed wishes of the pilot in command, the responsible official of the airline operating the aircraft and the designated official of the Federal Bureau of Investigation, the designated official of the Federal Aviation Administration shall determine if law enforcement action is appropriate. In those instances in which the designated official of the Federal Aviation Administration determines that law enforcement action is appropriate, he shall request the designated official of the Federal Bureau of Investigation to advise as to the appropriate methods to be used and, after approval of the designated official of the Federal Aviation Administration, take the law enforcement action that is required.

"5. Whenever such a request is made, the designated official of the Federal Bureau of Investigation shall provide such law enforcement assistance as is necessary.

"6. The designated official of the Federal Bureau of Investigation and the designated official of the Federal Aviation Administration shall maintain continuing coordination between their respective offices during the course of such law enforcement activity.

"B. When the aircraft is not in flight.

"1. When an aircraft is not in flight, that is prior to the moment when all external doors are closed after embarkation and after the moment when one such door is opened for disembarkation, the designated official of the Federal Bureau of Investigation shall make the decision to take law enforcement action with respect to a hijacking. The designated official of the Federal Bureau of Investigation shall give full consideration to the expressed wishes of the pilot in command, the responsible official of the airlines

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 13

operating the aircraft, and the designated official of the Federal Aviation Administration prior to initiating action.

"C. The decision of the designated official of the Federal Aviation Administration shall prevail in those instances where a question arises as to whether an aircraft is in flight or is not in flight."

EFFECTIVE: 02/15/82

164-7

DEPARTMENTAL INSTRUCTIONS

(1) The Department of Justice (DOJ) continues to advocate severe penalties for aircraft hijackers as a deterrent to future acts of air piracy. Consequently, authorization from the Criminal Division, DOJ, must be obtained by the U.S. Attorney before he/she enters into any agreement to forego an air piracy prosecution under Title 18, USC, Section 46502, in favor of a guilty plea to a lesser offense or decides otherwise not to prosecute fully an act of air piracy.

(2) The Department of Justice has requested that when USAs decline prosecution in those unaggravated violations of Title 49, USC, Section 46504 and Title 49, USC, Section 46506, where a crew member is a victim, that the FBI, with the approval and recommendation of the USA, then refer the matter to the local FAA representative, together with the results of any investigation for their consideration of proceeding against the offender civilly for violation of Federal Aviation Regulations (FAR) as codified in Title 14, Code of Federal Regulations (CFR), Section 91.8, entitled "Prohibition against interference with crewmembers."

(3) FAA preboard screening procedures periodically result in nonpassengers being found in possession of concealed deadly or dangerous weapons. These individuals have no tickets to board any aircraft but for the most part are discovered to be armed during examination at sterile concourse areas while either meeting or bidding farewell to persons who are ticketed passengers. The Department of Justice has advised that since these weapon-carrying nonpassengers have no apparent intent to board or attempt to board an aircraft, there is no violation of Title 49, USC, Section 46505. In view of this, it is not necessary for the field to respond to these incidents or to submit LHM to FBIHQ. Specifically note that an indication of intent to board or attempt to board an aircraft on the part of these

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 14

weapon-carrying nonpassengers requires the adherence to established investigative and reporting procedures. Each field division should ensure that local airline, airport, FAA and law enforcement officials are aware of these instructions.

(4) In those unaggravated violations of Title 49, USC, Section 46505, i.e., (firearms only) where state or local prosecution is declined upon USA deferral, it is current departmental policy to refer the matter to FAA for their consideration of proceeding against the offender civilly for violation of FAR as codified in Title 14, CFR, Section 107.21, entitled "Carriage of firearms, explosives, or incendiary devices." All offenses involving explosives or incendiary devices will continue to be prosecuted by the Department as criminal violations. (See MIOG, Part I, Section 174.)

(5) Prosecution under the Hobbs Act. Consideration should also be given to use of the Hobbs Act as a vehicle of prosecution where an extortionate demand is made directly or indirectly upon a commercial air carrier which would obstruct, delay, or affect commerce. The Department has instructed all USAs that when such an extortionate situation is encountered where it may be desirable to charge a violation under the Hobbs Act, the Department must be consulted.

EFFECTIVE: 12/23/96

164-8

REPORTING PROCEDURES

(1) Immediately advise FBIHQ by telephone or teletype, depending upon the exigency of the circumstances, of all cases involving aircraft piracy or where there is loss of life, danger to public safety, or widespread public interest. Each complaint should receive prompt and expeditious investigative attention.

(2) In all violations of Title 49, USC, Sections 46502 through 46507, a succinct LHM (original and one copy) should be submitted to FBIHQ by FD-365 within ten working days of receipt of initial complaint. Upon receipt of the LHM, FBIHQ will disseminate a copy to United States Secret Service, Intelligence Division, 1800 G Street, N.W., Washington, D.C. 20223. (See MAOP, Part II, 10-4.3; Correspondence Guide - Field, 2-5.5.11.)

(3) The appropriate regional office of FAA should be

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 15

promptly advised upon receipt of all complaints with close liaison being maintained during the course of each investigation.

(4) In all cases, the field office is to disseminate additional copies of the LHM within ten working days to the nearest Civil Aviation Security Field Office (CASFO), FAA Regional Office, United States Secret Service Field Office, and to the FBI field office which covers the subject's residence. Other interested agencies, such as the National Transportation Safety Board, Office of Special Investigations, etc., should likewise be advised locally when appropriate. Depending upon the exigency of the matter, immediate notification to the above agencies may be necessary.

(5) In those cases wherein the USA's office declines prosecution, defers prosecution to state or local authorities, or refers the matter to FAA for civil enforcement, or wherein it is known that state or local prosecution is declined upon USA deferral, the initial LHM should so indicate. One copy of this LHM should be directed to the USA confirming the USA's opinion in lieu of a separate confirmation letter.

(6) In all cases, dissemination is to be indicated on the FD-365 which transmits the LHM to FBIHQ with the LHM identifying those individuals and agencies already notified of the violation.

(7) When additional investigation is required, record results so they may be later incorporated into the prosecutive report. Two copies of these reports should be submitted to FBIHQ. In each instance, reports should set forth full facts including field office file numbers, complete descriptive and background data concerning each subject (best descriptive information available of an unknown subject should also be set forth), data concerning mental stability, the air carrier, flight number, origin and destination, time and place of offense, number of passengers and crew, weapons used, type of aircraft involved and any injuries. In hijacking situations, indicate where flight diverted to, motive, and terrorist affiliation, if any, and demands made by hijacker or hijackers.

(8) In order that the FBIHQ substantive case file may reflect the final outcome of each violation, the following FBIHQ notification policy should be followed by the office of origin.

(a) In those cases wherein the initial LHM submitted to FBIHQ by FD-365 reflects the final outcome, no further notification is necessary.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 16

(b) In those cases wherein the Accomplishment Report, FD-515, reflects the final outcome, no further notification is necessary.

(9) Technically, a bomb threat (or actual device) aboard an aircraft is a violation of Title 18, USC, Section 35, Destruction of Aircraft or Motor Vehicles (DAMV), as well as Title 49, USC, Section 46507. However, as a matter of policy, all fake reports (or actual instances) of a bomb aboard an aircraft unrelated to an aircraft hijacking incident should be investigated and reported under the DAMV (149) classification. Any incidents of this nature involving an aircraft hijacking incident should be carried under the Crime Aboard Aircraft (164) classification. The foregoing is to create uniformity in the Time Utilization and Recordkeeping (TURK) records, as well as to maintain program segregation.

(c) In all other cases, including those cases in which a USA declination or deferral was rendered subsequent to the initial LHM/FD-365 submission and those unsolved cases closed under SAC authority, a closing electronic communication should be directed to FBIHQ which clearly sets forth the basis for closing.

EFFECTIVE: 12/23/96

164-9 OBTAINING FEDERAL PROCESS

(1) Federal process should be obtained as soon as possible after the subject is identified and it is determined that the subject will be prosecuted federally.

(2) In those instances wherein an aircraft hijacking occurs, the subject is successful in avoiding apprehension and the subject's identity remains unknown, the field division should discuss with the USA's office the obtaining of a "John Doe" indictment of the unknown subject in order to toll the Statute of Limitations, Title 18, USC, Section 3282, prior to its expiration.

EFFECTIVE: 02/20/90

Sensitive
PRINTED: 02/18/98

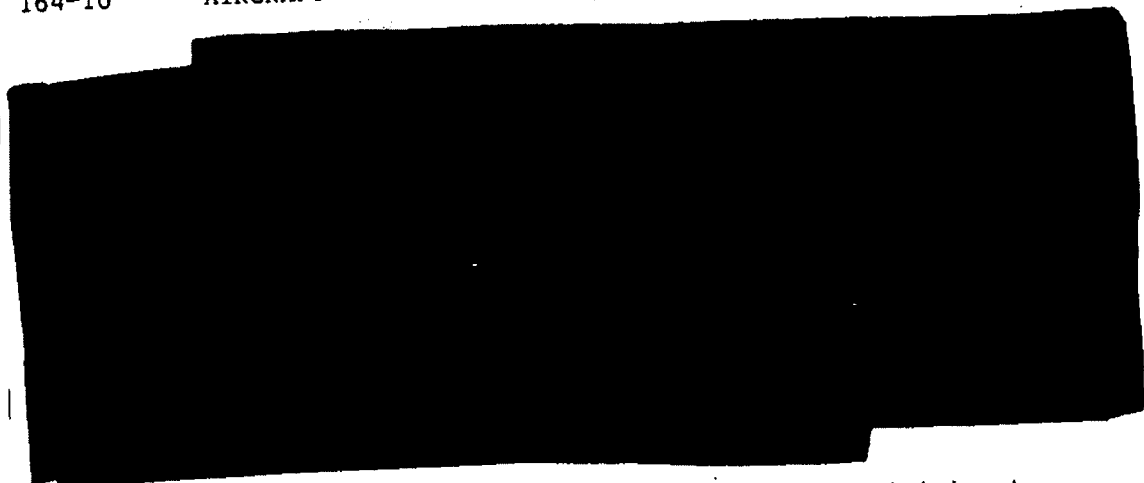
Sensitive

Manual of Investigative Operations and Guidelines
Part I

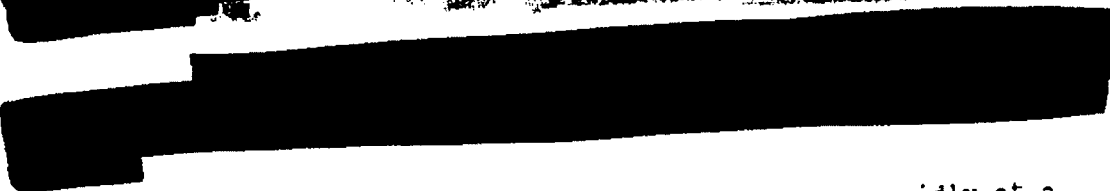
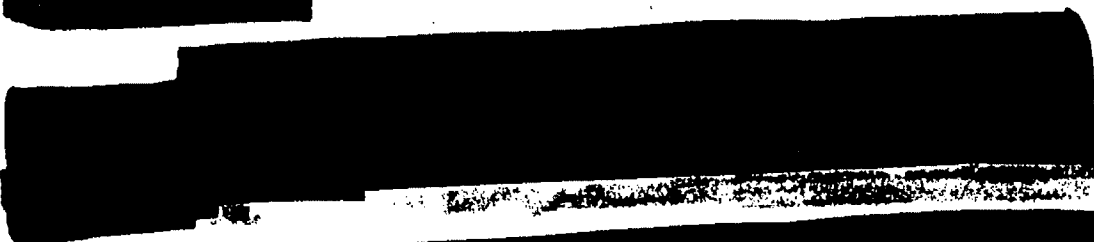
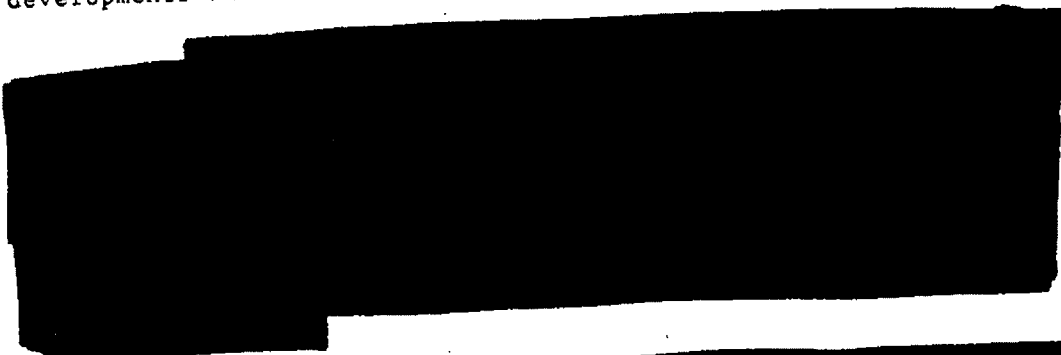
PAGE 164 - 17

164-10 AIRCRAFT HIJACKING INCIDENT MANAGEMENT

b2
b7E



(2) It will be incumbent upon each field division to ensure that FBIHQ is advised on a current basis as to on-the-scene developments in each aircraft hijacking incident.



(6) A hijacked aircraft may change course rapidly at a hijacker's request and proceed to a foreign country. Upon receipt of

Sensitive
PRINTED: 02/18/98

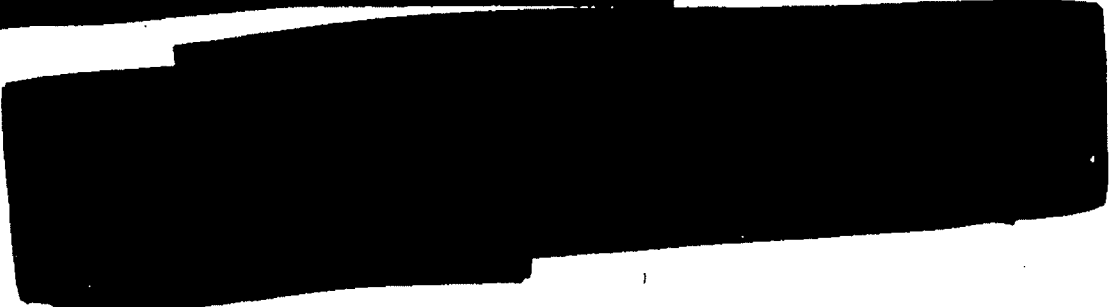
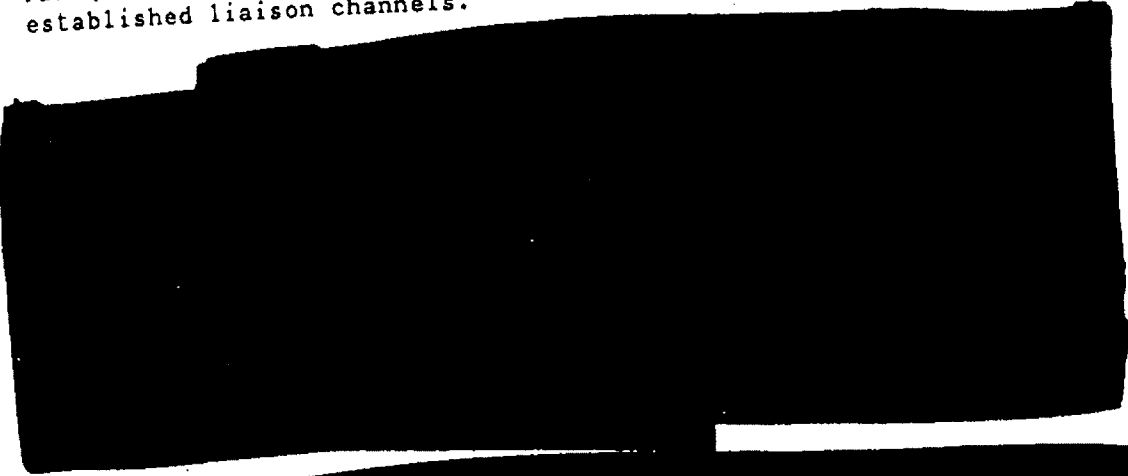
Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 18

such information, FBIHQ should be immediately notified by telephone. FBIHQ will notify the appropriate governmental agencies through established liaison channels.

b2
b7E




EFFECTIVE: 02/20/90

164-11 CONTINGENCY PLANNING

(1) The FBI's prime concern in all Crime Aboard Aircraft incidents is for the safety of the passengers and crew.

(2) The FBI and FAA have established an effective, coordinated effort on a Headquarters level concerning Crime Aboard Aircraft incident management. Practical incident management requires the continuation of that spirit of cooperation through to the field. Accordingly, each field office should maintain liaison with the appropriate FAA Security Office in order to ensure a mutual effort in the event of an incident where our joint responsibilities must be exercised.



Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 19

[REDACTED]

(a) Inasmuch as it will be incumbent upon each field office to ensure that FBIHQ is advised on a current basis as to on-the-scene developments in each aircraft hijacking incident, direct and instantaneous communications between Agents in the vicinity of the hijacked aircraft, control tower, field office, and the FBIHQ [REDACTED] is absolutely essential.

b2
b7E
[REDACTED]

(c) It is suggested that sufficient telephone communications within the primary command post would consist, under ideal conditions, of at least five telephone lines available for exclusive FBI utilization. Those lines, as an example, might be utilized for communication with the following:

[REDACTED]

[REDACTED]

[REDACTED]

3. Secondary Command Post, [REDACTED]

4. Field Office

5. Miscellaneous

[REDACTED]

(e) Appropriate facilities should be available for the interviews of the subject(s) and witnesses.

(f) Preplanning for the prompt dispatch of

Sensitive
PRINTED: 02/18/98

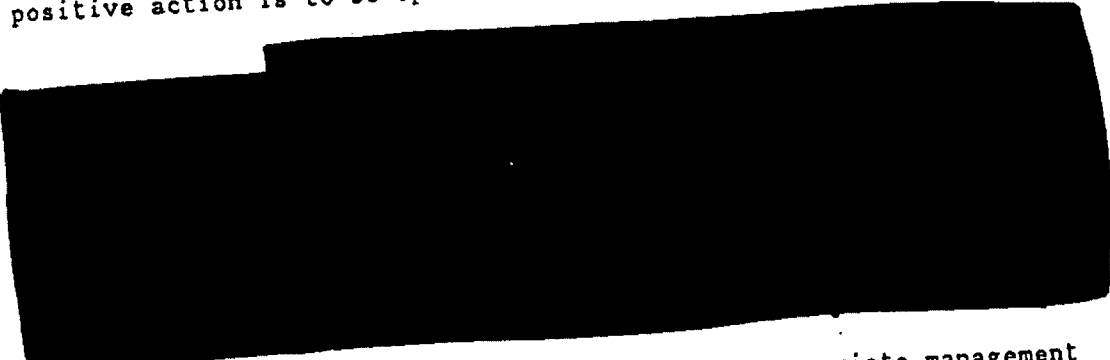
Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 20

sufficient personnel and equipment to major air terminals and military airfields within the division is essential.

(g) All equipment necessary for Agents to carry out positive action is to be operative and readily available.



(4) All enforcement agencies and appropriate management personnel at air terminals should be fully aware of the FBI's responsibilities in aircraft hijackings in order to ensure maximum cooperation in an actual hijacking situation and the continuance of a "common strategy."

(5) Each field division is to remain prepared to conduct thorough crime scene examinations in regard to Crime Aboard Aircraft incidents. Physical evidence collected should be submitted to FBIHQ for examination by the FBI Laboratory and/or Latent Fingerprint Section when it appears that such an examination is desirable. Thorough crime scene examination becomes most critical in those instances wherein a successful aircraft hijacking occurs, the subject(s) avoids apprehension, and the subject's identity remains unknown, e.g., flights diverted to Cuba.

(6) FBIHQ is to be notified by airtel of instances wherein a field division is planning a Command Post Exercise (CPX) or Field Training Exercise (FTX) regarding aircraft hijacking contingency training. The airtel should be directed, Attention: Violent Crimes/Fugitive Unit, Criminal Investigative Division, with an information copy designated for the Critical Incident Response Group's Crisis Management Unit. The caption should indicate the type of exercise, i.e., CPX and/or FTX; the type of training, i.e., aircraft hijacking contingency training; the divisional name; the exercise date and the Crime Aboard Aircraft character, with pertinent details synopsized in the text of the communication.

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

3 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☒ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☒ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- ☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of _____

Page(s) withheld for the following reason(s): _____

- ☐ The following number is to be used for reference regarding these pages:

11106; pages 164-21 - 164-22, 164-23

 XXXXXXXXXXXXXXXXXXXX
 X Deleted Page(s) X
 X No Duplication Fee X
 X for this page X
 XXXXXXXXXXXXXXXXXXXX
XXXXXX
XXXXXX
XXXXXX

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 24

The following is prescribed by ARINC:

b2
b7E
(3)

EFFECTIVE: 02/15/82

164-14 NEWS MEDIA INQUIRIES POLICY

(1) In many cases, violations of this statute generate intense public and media interest. The FBI's news media inquiries policy is in strict compliance with instructions issued by the Department of Justice concerning the release of information in criminal and civil matters. These instructions are contained in Title 28, CFR, Section 50.2.

(2) For complete details regarding this topic, including a restatement of the above CFR instructions, see Manual of Administrative Operations and Procedures, Part II, Section 5-1, entitled "Policy and Guidelines for Relations with News Media," and Section 5-2, entitled "Contacts with News Media."

(3) Utmost discretion should be exercised in releasing to the news media any information concerning a modus operandi utilized by a subject in a violation of this statute.

EFFECTIVE: 02/15/82

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 25

164-15 CARRIAGE OF WEAPONS

(1) Title 49, USC, Section 46505, grants the FAA Administrator authority to except other such persons as the Administrator may deem necessary from prohibition of carrying deadly or dangerous weapons in air transportation or intrastate air transportation.

(2) FAR as codified in Title 14, CFR, Section 108.11, addresses the carriage of weapons aboard aircraft and is considerably broader than Title 49, USC, Section 46505, since it covers both concealed and unconcealed weapons. FBI jurisdiction, however, is limited to violations specifically enumerated in Section 46505 of Title 49.

b7
b7E
(3)

(4)

EFFECTIVE: 04/07/97

|| 164-16 CHARACTER - CRIME ABOARD AIRCRAFT (CAA) - FOLLOWED BY
DESCRIPTION OF CRIME; E.G., CAA - AIRCRAFT PIRACY |

EFFECTIVE: 02/15/82

|| 164-17 CLASSIFICATION - 164 |

EFFECTIVE: 02/15/82

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 26

| 164-18 SUBCLASSIFICATIONS

For details concerning this topic, see the Manual of Administrative Operations and Procedures, Part II, Section 3-1.1, entitled "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 1

SECTION 165. INTERSTATE TRANSMISSION OF WAGERING INFORMATION

165-1 STATUTE

Title 18, USC, Section 1084

"(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

"(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

"(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

"(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 2

tribunal or agency, that such facility should not be discontinued or removed, or should be restored."

EFFECTIVE: 01/31/78

165-1.1 Definition of Term "Wire Communication Facility"

Title 18, USC, Section 1081. "The term 'wire communication facility' means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission."

EFFECTIVE: 01/31/78

165-2 POLICY

(1) In regard to (d) of section 1084, dissemination of information to the carrier regarding those individuals utilizing their facilities in interstate or foreign commerce will be made by the Department upon receipt of evidence of such utilization.

(2) In those instances in which allegations of violations of this type are received, it is not necessary to show that the operator is engaged in the business of betting, etc., but merely that he is transmitting or receiving wagering information through a wire facility.

(3) Forward such a complaint with corroborative evidence to FBIHQ for dissemination to the Department in the form of letterhead memorandum containing:

(a) The name and address of the telephone company furnishing service.

(b) The name, address, and telephone number, if available, of the subscriber known to be in violation of this section.

(c) A short statement of facts with names of witnesses and a brief summary of their potential testimony.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 3

(d) A statement as to whether it is known if subscriber moves from place to place or if it is the general practice to operate from a specific location.

(4) Local violations should be disseminated with any evidence available to the appropriate local or state authority in writing after Bureau's interest secured. When disseminating without accompanying evidence, state in letter of dissemination that the information being furnished not substantiated through investigation by this Bureau.

(5) When information is received from local or state authorities that notification has been given by them to a carrier, such information should be forwarded to FBIHQ in the form of a letterhead memorandum.

(6) In connection with investigations of wire services, bear in mind the possibility of prosecution as principals under Title 18, USC, Section 2, the aiding and abetting section.

EFFECTIVE: 01/31/78

165-3

INVESTIGATIVE PROCEDURE

(1) When information developed that an individual engaged in the business of betting or wagering is using a wire communication facility in violation of this law:

(a) Develop information relative to wire communication facility utilized; that is, whether telephone, telegraph, etc.

(b) Identify individuals contacting or contacted by subject.

(c) Determine what service they furnish to or receive from subject.

(d) Interview these individuals and subject when investigation has progressed to point where interview logical.

(e) Obtain all documentary evidence of violation available, such as toll tickets, copies of communications, etc.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 4

- (f) Utilize informants.
- (g) Consider surveillances when applicable.
- (2) Upon developing information as to the existence of a wire service:
 - (a) Identify the phone utilized by the wire service.
 - (b) Check toll tickets and identify subscribers to the numbers called and calling.
 - (c) Interview a representative number of subscribers receiving the wire service, even though in some instances a subscriber may be a social better inasmuch as the purpose of the interview is to establish the use of the service by the subscriber.
 - (d) Interview owners and employees of wire service, examine bank accounts, and utilize informants.

EFFECTIVE: 01/31/78

165-4 VENUE

In any district from, through, or into which such information transmitted. (Title 18, USC, Section 3237)

EFFECTIVE: 01/31/78

165-5 CHARACTER - INTERSTATE TRANSMISSION OF WAGERING INFORMATION

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 1

SECTION 166. INTERSTATE TRANSPORTATION IN AID OF RACKETEERING

166-1 STATUTE

Title 18, USC, Sections 1952, 1958, and 1959.

EFFECTIVE: 08/30/93

166-1.1 Section 1952 - Interstate and Foreign Travel or Transportation in Aid of Racketeering Enterprises (See MIOG, Part I, 50-4.2.)

"(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to--

"(1) distribute the proceeds of any unlawful activity; or

"(2) commit any crime of violence to further any unlawful activity, or

"(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform any of the acts specified in subparagraph (1), (2), and (3), shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"(b) As used in this section (i) 'unlawful activity' means, (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics, or controlled substances (as defined in section 102(6) of the Controlled Substances Act, or prostitution offenses in violation of the laws of the State in which they are committed or of the United States; or, (2) extortion, bribery, or arson in violation of the laws of the United States, or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title, and (ii) the term 'State' includes

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 2

a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury."

EFFECTIVE: 08/30/93

166-1.2 Section 1958 - Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire

"(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder be committed in violation of laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both; and if personal injury results, shall be fined not more than \$20,000 and imprisoned for not more than twenty years, or both; and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than \$50,000, or both.

"(b) As used in this section and section 1959 -

"(1) 'anything of pecuniary value' means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage;

"(2) 'facility of interstate commerce' includes means of transportation and communication; and

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 3

EFFECTIVE: 08/30/93

166-1.3 Section 1959 - Violent Crimes in Aid of Racketeering Activity

"(a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished-

"(1) for murders or kidnaping, by imprisonment for any term of years or for life or a fine of not more than \$50,000, or both;

"(2) for maiming, by imprisonment for not more than thirty years or a fine of not more than \$30,000, or both;

"(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine of not more than \$20,000, or both;

"(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine of not more than \$5,000, or both;

"(5) for attempting or conspiring to commit murder or kidnaping, by imprisonment for not more than ten years or a fine of not more than \$10,000, or both; and

"(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of not more than \$3,000, or both.

"(b) As used in this section-

"(1) 'racketeering activity' has the meaning set

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 4

forth in section 1961 of this title; and

"(2) 'enterprise' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce."

EFFECTIVE: 08/30/93

166-2 POLICY

(1) At the time these cases are presented to the USA for prosecutive opinion, he/she should be advised whether forcible entry is foreseen in the service of arrest or search warrants.

(2) Furnish copies of all reports to the appropriate USA.

(3) Extortion violations which involve threats to injure reputation or to accuse another of a crime through the use of the mails are to be handled by the postal inspectors.

(4) The Department has advised that Title 18, USC, Section 1084(d) (ITWI), is sufficiently broad in scope to cover violations of Title 18, USC, Section 1952, where "facility" is being used for gambling purposes. Appropriate consideration should be given to termination of telephone or telegraph facilities which are utilized for gambling purposes, as provided in Title 18, USC, Section 1084(d).

(See Section 165-2, of this manual concerning submission of notice to the Department.)

(5) The amendment adding arson as a violation to the statute, by its terms, applies to any arson, where facilities of interstate commerce are used; however, the FBI will concentrate its efforts on violations involving organized crime figures, arson-for-profit, arson-for-hire, and/or cases where the complexity of the investigation warrants Federal interest. Investigations should be conducted with organized crime and arson-for-profit as the focus. That is, where property owned by organized crime figures is deliberately set afire, or where property is set afire by a known professional torch, with intent to defraud an insurance company, or where property is destroyed by fire as a strong-arm tactic by

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 5

organized crime, and facilities of interstate commerce are used to effectuate the arson, investigation should be conducted.

(6) ITAR - Arson (non-LCN) - ITAR - Arson investigations in which no known organized crime members or associates are involved should be investigated, when appropriate, within the Interstate Theft Subprogram. All ITAR - Arson investigations involving LCN members or LCN associates are to be referred to the Organized Crime/Drug Operations Section #2, Criminal Investigative Division, at FBIHQ.

(7) The FBI's statutory authority for conducting arson investigations is under the Racketeer Influenced and Corrupt Organizations (RICO) Statute, Interstate Transportation in Aid of Racketeering (ITAR) Statute and Crime on a Government Reservation (CGR) Statute. The RICO and ITAR Statutes are most frequently used. Under the RICO Statute there are several arson-related unlawful acts known as "predicate offenses" (Federal violations covered are Mail Fraud, Fraud by Wire, Obstruction of Justice and Bank Fraud), (violations of state law covered are arson, extortion, murder and bribery), which form a pattern of racketeering.

(8) Inner-city arson is a scheme designed to defraud insurance companies and is frequently investigated under the ITAR Statute. Inner-city arson has a direct impact on the daily lives of citizens, whereby people are killed or injured, property destroyed, insurance premiums raised and the very quality of community life drastically lowered. To assist the investigator in the recognition of inner-city arson, the following are sources of arson information:

(a) Police/fire department records (obtain a list of arson suspicion fires)

(b) Local newspapers (look for articles on arson)

(c) State fire marshals

(d) Insurance Crime Prevention Institute (ICPI)

(e) Insurance adjustors

(f) Informants

(9) The following are clues which indicate positive circumstantial evidence that a fire was set for an insurance fraud:

(a) Presence of incendiary material

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 6

(b) Multiple origins of fire (arson must be a total loss to be profitable)

b2
66
(c) Location of the fire in a building (look for fire started near the roof as many insurance adjusters will declare a fire a total loss once the roof is destroyed)

(d) Suspicious hours (no witnesses)

(e) Holiday fires

(f) Vacant building

(g) Renovation of building

(h) Recent departure of occupants

(i) Removal of objects (woodwork, plumbing, etc.)

(j) Property for sale

(k) Previous fire

(l) Building overinsured

(m) Habitual claimants

policy expires
(n) Fires occurring shortly before the insurance

(o) Fires where insurance has recently been obtained

(p) Recent sale of building

(10) Investigative techniques that are most frequently used and have proven to be effective in arson investigations are as follows:

(a) Informants

(b) Surveillance

(c) Reviewing records

(d) Consensual monitoring

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 7

(e) Court-ordered Title III electronic surveillance

(f) Grand Jury and/or grants of immunity

(11) Field offices should not open cases on the mere fact that a fire is of a suspicious origin, rather they should concentrate their efforts on violations involving organized crime figures, arson-for-profit, arson-for-hire, and/or where the complexity of the cases warrants Federal interest. All investigations being conducted under this statute should be closely coordinated with FBIHQ and the appropriate USA.

(12) Deleted

(13) Deleted

(14) Deleted

(15) Violent crime is defined as any crime which has as an element any use, attempted use, or threatened use of physical force against the person or property of another. Violent crime is also defined as any other offense that is a felony and involves a "substantial risk" against the person or property of another.

EFFECTIVE: 08/30/93

166-3 REPORTING PROCEDURES (See MAOP, Part II, 10-9(17).)

(1) ITAR violations in support of or related to organized criminal enterprises are handled by the Organized Crime/Drug Sections and will be reported accordingly.

(2) ITAR - Murder and other ITAR offenses in support of other violent crimes, committed by subjects who are not connected to an organized criminal enterprise, are handled by the Violent Crimes and Major Offenders Section (VCMOS), FBIHQ. All offices should advise FBIHQ, CID, Violent Crimes/Fugitive Unit (VCFU), by teletype whenever an ITAR - Violent Crimes case is initiated. The initial communication should set forth the following:

(a) A characterization of the target investigation;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 8

(b) A brief summary of the violent crime activity in which the target of the investigation is involved;

(c) Basis for federal jurisdiction; and

(d) Proposed investigative approach.

(3) Deleted

(4) Each FBI office will advise FBIHQ, CID, VCFU, of all pending ITAR - Violent Crimes investigations that involve the purchase of drugs by submitting a quarterly airtel by the fifth of each January, April, July, and October. The airtel should include the case caption, office file number, and a brief summary of all drug transactions that took place during the previous quarter in that investigation.

(5) In the event an ITAR - Violent Crimes investigation, which involves the purchase of drugs, contemplates the use of any of the following sophisticated techniques, prior approval must be obtained and the respective field office must refer to and comply with the Part I, Section 281 of the Manual of Investigative Operations and Guidelines (MIOG).

b2
b7E

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(6) Each field office should advise FBIHQ, VCMOS, VCFU, by teletype whenever an ITAR-Violent Crimes investigation is prosecuted and/or closed.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 9

EFFECTIVE: 07/20/95

166-4 | THREAT TO LIFE - DISSEMINATION OF INFORMATION (See
MAOP, Part II, 9-7; MIOG, Part I, 89-6, 175-22.1,
and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

"III. Guidelines

"A. Warning to the Person.

"(1) Expeditious Warnings to Identifiable Persons.
Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

"(2) Manner, Means, and Documentation of Warning.

"a. The Agency may determine the means and manner of the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 10

"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or Custodial Jurisdiction.

"(1) Expeditious Notification. When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) Means, Manner, and Documentation of Notification. The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 11

provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

"(1) Expeditious Notification. Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

"(2) Threats to Occupied Structures or Conveyances. When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) Means, Manner, and Documentation of Notification. The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has investigative jurisdiction concerning a threat:

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 12

enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

EFFECTIVE: 03/14/97

||166-5| POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY
STATUTES IN INTERSTATE TRANSPORTATION IN AID OF
RACKETEERING (ITAR)-PROSTITUTION CASES

When conducting ITAR-Prostitution investigations, Agents should be alert to facts which indicate that prostitutes were held or sold into conditions of involuntary servitude or slavery through use of force, threat of force, or coercion. Such situations may constitute violations of the Involuntary Servitude and Slavery and related statutes. Full details of these laws, as well as FBI policy and procedure, are set forth in Part I, Section 50 of this manual.

EFFECTIVE: 03/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 13

||166-6| VENUE

In any district from, through, or into which travel or transportation in violation of statute has occurred (Title 18, USC, Section 3237).

EFFECTIVE: 03/14/97

||166-7| CHARACTER - INTERSTATE TRANSPORTATION IN AID OF
RACKETEERING - EXTORTION, BRIBERY, GAMBLING, PROSTITUTION,
ARSON, MURDER, AND VIOLENT CRIMES

EFFECTIVE: 03/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 1

SECTION 167. DESTRUCTION OF INTERSTATE PROPERTY

||167-1| STATUTE

Title 15, USC, Sections 1281 and 1282

This statute prohibits the willful destruction or injury to property moving in interstate or foreign commerce while such property is in the control of common or contract carriers. This law is limited to rail, motor vehicle, and aircraft carriers.

EFFECTIVE: 01/21/86

||167-1.1| Section 1281

Prohibition against destruction of property in possession of carriers; penalty; prima facie evidence of commerce

"(a) It shall be unlawful for any person willfully to destroy or injure any property moving in interstate or foreign commerce in the possession of a common or contract carrier by railroad, motor vehicle or aircraft, or willfully to attempt to destroy or injure any such property.

"(b) Whoever violates subsection (a) of this section shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

"(c) To establish the interstate or foreign commerce character of any property involved in any prosecution under this section, the waybill or similar shipping document of such property shall be prima facie evidence of the place from which and to which such property was moving."

EFFECTIVE: 01/21/86

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 2

||167-1.2| Section 1282. State Prosecutions

"A judgment of conviction or acquittal on the merits under the laws of any State or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, shall be a bar to any prosecution under this chapter for the same act or acts."

EFFECTIVE: 01/21/86

||167-1.3| Elements

- (1) Property is moving in interstate or foreign commerce in the possession of a common or contract carrier.
- (2) The property is being shipped by rail, motor vehicle, or aircraft.
- (3) The property is willfully destroyed or injured.
- (4) An attempt is made to willfully destroy or injure such property.

EFFECTIVE: 01/21/86

||167-2| POLICY

- (1) Upon receipt of a complaint indicating a possible violation of this statute, FBIHQ must be advised by the most expeditious means depending upon the exigencies of the case involved setting out briefly the facts and the action being taken.
- (2) If any questionable complaints are received, the facts should be immediately discussed with the appropriate USA for a determination as to whether a violation exists and whether he/she will authorize prosecution in the event the subjects are identified.
- (3) This statute does not limit in scope the type of property covered, mode of carriage (excepting water transport) nor does it distinguish between a common or contract carrier.
- (4) Unintentional acts are excluded. The element of willful intent is specifically required to constitute a violation.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I,

PAGE 167 - 3

(5) Those cases wherein the willfulness of the act is not obvious or where circumstances do not strongly indicate concerted efforts should be brought to the attention of the USA before initiating any investigation so that he/she may discuss the matter with state or local law enforcement officials and render a prosecutive opinion.

(6) Once it has been determined either from the facts of a case or upon receipt of the opinion of the USA that there has been a violation of the statute, an immediate, continuous, and exhaustive investigation must be conducted.

EFFECTIVE: 01/21/86

||167-3| INVESTIGATIVE PROCEDURE

(1) Waybill must be obtained to determine the interstate or foreign character of the property involved, together with the identity of the individual competent to introduce it into evidence.

(2) An examination must be made of the damaged goods. Foreign substances, bullets, tool marks, and any other items of evidence located must be submitted to the Laboratory for examination.

(3) Photographs should be taken when the damage is extensive or when deemed warranted.

(4) The location of the violation should be determined in the early stages of the investigation.

(5) A thorough and meticulous crime scene search should be conducted once the place of violation has been established.

(6) Thorough interviews must be conducted of all persons connected with the shipment of the damaged property. Signed statements should be taken from any witnesses furnishing information of value.

EFFECTIVE: 01/21/86

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 4

||167-4| DESTRUCTION OF INTERSTATE PROPERTY IN CONNECTION WITH
UNION ACTIVITY

(1) If information is developed indicating the damage was caused as a result of a strike or union activity, advise FBIHQ immediately.

(2) FBIHQ authority is not needed to interview union members in connection with these investigations; however, FBIHQ should be advised prior to conducting an interview of union officials.

(3) In connection with these interviews, each union member or union official should be specifically and unequivocally advised that this Bureau is not interested in the demands or merits of the strike; that this Bureau is charged with protecting goods moving in interstate and foreign commerce and the investigation is to determine whether there has been a violation of Federal law and, if there has been, to determine the identity of those persons responsible.

(4) All major developments must be furnished to FBIHQ by appropriate communication, and all leads to other offices must be set forth by teletype.

(5) In connection with these investigations the Department has stated:

(a) "Where explosives are used or where an attempt is made to injure the driver of a vehicle moving on the roadways the actor has violated the statute; in the first case because he obviously intends to destroy the entire vehicle and any cargo it may be carrying; in the second instance one who commits such an act so directly dangerous to the life and safety of the driver of a moving vehicle must be presumed to intend all of the natural consequences of his reckless act which would inevitably include the wrecking of the vehicle and the destruction of whatever cargo it may be carrying. Acts short of shooting whose clear intent would also be to force the truck into a wrecked situation would likewise be fit occasions for prosecutions for the same ultimate objective of destruction of truck and cargo is a presumptive conclusion."

(b) "While the cases might be more difficult of proof and less obvious, it cannot be said that damage (not of an explosive nature) to a vehicle at rest is invariably outside the statute. Where damage is done to a vehicle at rest which might reasonably cause harm to that vehicle at a later time and while in

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 5

motion would fall within the same category as previously mentioned e.g., the weakening of an air brake system or of the running gear the intended effect of which is to occur at a later time. These cases would depend upon the specific kind of damage occurring and the probable intended results."

(c) "Attempts at damage to cargoes difficult or incapable of damage are to be considered as covered unless the attempt could not conceivably have been successful."

EFFECTIVE: 01/21/86

||167-5| VENUE

In the district in which the damage or destruction occurred. If the location of the act is unknown, prosecutive jurisdiction will lie either in the district of origin or the district of terminus of the shipment.

EFFECTIVE: 01/21/86

||167-6| DOUBLE JEOPARDY

A judgment of conviction or acquittal on the merits under the laws of any state or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico shall be a bar to any prosecution under this act for the same act or acts.

EFFECTIVE: 01/21/86

||167-7| CHARACTER - DESTRUCTION OF INTERSTATE PROPERTY

EFFECTIVE: 01/21/86

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 1

SECTION 168. INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA

168-1 STATUTE

Title 18, USC, Section 1953

"(a) Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, or adapted, devised or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"(b) This section shall not apply to (1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law.

"(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia."

Note: In regard to the use of the mail as a vehicle of transportation, violations are investigated by the U.S. Postal Service under Title 18, Section 1302.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 2

168-2 DEPARTMENTAL POLICY

(1) With respect to bookmaking, Section 1953 would prohibit transportation of items, such as flash paper intended for recording of bets, pads of paper, adding machines, and similar material, where it can be shown that the material used was intended or adapted for such use.

(2) Regarding wagering pools with respect to sporting events, the section would prohibit transportation of sweepstakes tickets, football, basketball, and baseball pool cards, and similar material, as well as any other objects which may be used in carrying on such activities.

(3) Material used in numbers, policy, bolita, and similar games that is prohibited from transportation would include slips on which numbers are recorded, tally slips, adding machine paper, printing plates, presses, and the like. The Department does not construe the language of the law to extend to lotteries of all kinds, but rather it should be confined to the types enumerated and variations thereof. Games, such as bingo or punchboards, are not included in the statute. The Department interprets the work "knowingly" to require a conscious act on the part of the person carrying or sending the material, which act would require a knowledge of the nature of the material and a knowledge and intent that the material be transported. It does not require a knowledge of the specific prohibition of the statute or even of the existence of the statute.

EFFECTIVE: 10/18/88

168-3 INVESTIGATIVE PROCEDURE

(1) The records of the carrier should be examined to determine the name of the shipper, consignee, route, and date of shipment.

(2) Any material used by the carrier or other documentary evidence that would establish the interstate character of the shipment should be obtained.

(3) When transportation is accomplished by means other than the use of a common carrier, consider the advisability of surveillances to establish the interstate transportation of the items.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 3

(4) The development and utilization of confidential informants, other investigative techniques, and the use of the FBI Laboratory should be considered.

(5) Violations of the Interstate Transmission of Wagering Information and Interstate Transportation in Aid of Racketeering statutes may accompany violations of Interstate Transportation of Wagering Paraphernalia.

EFFECTIVE: 10/18/88

168-4 VENUE

In any district from, through, or into which such paraphernalia transported. (Title 18, USC, Section 3237)

EFFECTIVE: 10/18/88

168-5 REPORTING PROCEDURES

(1) In 168A cases involving LCN members and/or associates or 168B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicated the case and sufficient identification data on the subject(s) for indexing purposes.

(2) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(3) The results and/or summary of investigation should be reported by airtel.

(4) In 168C cases, no reporting to FBIHQ is required.

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 4

||168-6| CHARACTER - INTERSTATE TRANSPORTATION OF WAGERING
PARAPHERNALIA

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 1

SECTION 172. SPORTS BRIBERY

172-1 STATUTE

Title 18, USC, Section 224, effective 6-6-64

Section 224. Bribery in Sporting Contests

"(a) Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(b) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

"(c) As used in this section -

"(1) The term 'scheme in commerce' means any scheme effectuated in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;

"(2) The term 'sporting contest' means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;

"(3) The term 'person' means any individual and any partnership, corporation, association, or other entity."

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 2

172-1.1 Elements

- (1) A "scheme in commerce"
 - (2) Designed to influence a sporting contest by bribery
 - (3) An attempt to carry into effect the scheme or actual carrying into effect of the scheme (or alternately, a conspiracy to do this, noting that this section contains its own conspiracy provision)
 - (4) With knowledge of the purpose of the scheme
-

EFFECTIVE: 01/31/78

172-1.2 Exceptions

Nothing in this section shall pre-empt the laws of any state, territory, commonwealth, or possession of the U.S. or deprive local authorities of jurisdiction over existing statutes in this field.

EFFECTIVE: 01/31/78

172-1.3 Analysis of Statute

(1) This section makes it a Federal offense to attempt to or to influence, in any way, a sporting contest by bribery. From the legislative history it is clear that Congress intended this statute to cover not only outright "throwing" of contest but also more subtle practices, such as "point-shaving." The section covers both the briber and the recipient, be he participant, coach, trainer, referee, or anyone else who could in fact "influence" the outcome of the contest.

(2) It is also evident from the legislative history of the section that Congress intended to extend Federal jurisdiction only to those schemes which involve interstate use of interstate facilities in carrying the scheme into effect.

(3) "Bribery" is not defined by the statute, and at common law referred only to the misconduct of public officials. The Department has advised, however, that it is apparent the congressional

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 3

intent was to use the word in its generally accepted context, such that it includes the offering of any reward to any one who could influence the contest by acting (or not acting) in a manner other than he would have but for the bribe.

(4) When investigation under this section encompasses a possible violation of the Federal Communications Act, the provisions of Title 47, USC, Section 409 (1) (referred to as the FCC immunity statute), are applicable to the grand jury investigation. Consideration of such action should be suggested to the USA where grand jury presentment is warranted.

EFFECTIVE: 01/31/78

172-2 POLICY

(1) FBIHQ must be immediately informed by expeditious means, depending upon the urgency of circumstances, of all allegations of violations of this statute. Seeking prosecutive opinion of appropriate USAs in the field is authorized. However, FBIHQ, because of expected widespread public interest in cases investigated and prosecuted under this statute, must be kept fully and currently advised of all developments.

(2) Every effort must be made to avoid charges of illegal arrest without a warrant at the scene of a bribery payoff. Where facts of a substantive offense, such as offer or solicitation, are learned prior to actual payoff, consult the USA as to the desirability of obtaining a warrant of arrest, based on such offense already committed, to be served at time of payoff. Opinions of the USA in this regard must be clearly indicated in reports.

(3) The USA must be consulted prior to taking any action with regard to renewal of offer, solicitation, or payoff which might involve entrapment. Any indication of entrapment must be brought immediately to the attention of the USA and FBIHQ.

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 4

172-3 INVESTIGATIVE PROCEDURE

(1) Information concerning bribery attempts may be received from established sources, such as school officials, coaches, game officials, or the players themselves. When information is received from informants or sources that attempts are being made to rig a contest or large wagers are being made that would indicate a contest has been rigged, appropriate investigation should be conducted.

(2) Identify sports contest involved.

(3) Immediately make discreet efforts through reliable informants and sources to identify the conspirators and their targets, whether they be players or officials.

(4) Identify proposed method of communication or liaison between conspirators and targets.

(5) Attempt to effect coverage when contact is made.

(6) Cover contest and identify subjects as spectators and record their actions by appropriate observations or means.

EFFECTIVE: 10/18/88

172-4 VENUE

In any district from, through, or into which travel, transportation, or communication in violation of statute has occurred (Title 18, USC, Section 3237)

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 5

172-5 | REPORTING PROCEDURES

(1) Immediately inform FBIHQ of all allegations of violations of this statute.

(2) In 172A cases involving LCN members and/or associates or 172B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicated the case and sufficient identification data on the subject(s) for indexing purposes.

(3) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(4) The results and/or summary of investigation should be reported by airtel.

(5) In 172C cases, no reporting is required, other than the initial advisement to FBIHQ as in (1) above.

EFFECTIVE: 10/18/88

172-6 | CHARACTER - SPORTS BRIBERY

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 1

SECTION 173. CIVIL RIGHTS ACT OF 1964

173-1 BACKGROUND

The Civil Rights Act of 1964 was enacted into law on 7-2-64 and became effective that date with the exception of the employment provisions which became effective 7-2-65. The principal items which affect the Bureau's work are the titles dealing with public accommodations, public education, public facilities, and employment.

EFFECTIVE: 08/08/78

173-2 STATUTES

Public Law 88-352 - Civil Rights Act of 1964 (Title 42, Section 2000) Title 18, USC, Section 245, Public Law 92-261 - Equal Employment Opportunity Act of 1972, effective 3-24-72.

EFFECTIVE: 08/08/78

173-3 POLICY

(1) Do not advise persons interviewed of their rights except when interference by force or threat of force, interference with witnesses, or other obstruction of justice is present. Be guided by Section 7-3.2, of the Legal Handbook for Special Agents concerning confessions and interrogations.

(2) Interview may be conducted in the presence of attorney if requested by interviewee. Two Agents should be present at all interviews of subjects and witnesses when the presence of an attorney is anticipated. SAC approval should be obtained in such instances. If circumstances indicate that the interview should not be conducted in the presence of the interviewee's attorney, furnish full details to FBIHQ with your recommendations. Any other interviews should be conducted by two Agents where good judgment so dictates.

(3) Do not identify source of complaint to any person

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 2

interviewed or contacted during the course of an investigation. If necessary to effect identification of specific incident involved, it is sufficient to state to the effect that a Civil Rights Act of 1964 investigation is being conducted of allegation that victim (identifying victim by name) has been discriminated against.

| (4) Field offices may communicate directly with the Department of Justice (DOJ), Civil Rights Division (CRD) attorney who generates a written or verbal request for investigation, the latter of which will also be documented by DOJ and subsequently transmitted to the field by airtel from FBIHQ. In the event field offices strongly disagree with the requirements of the DOJ investigative requests and/or taskings, and cannot resolve these issues with DOJ, field offices should contact the Civil Rights Unit, FBIHQ. |

EFFECTIVE: 08/10/94

173-3.1 Privacy Act - Requirements

(1) When interviewing the subject, agent or representative performing management functions, in order to solicit information about subject or subject's activities, the interviewing Agent must follow the procedure described in Section 190-5, subparagraphs (2) and (3) of this manual. In all civil rights-type (noncriminal) investigations, the interviewee is to be provided with form FD-496. The FD-302 used to report results of these interviews should clearly state that the interviewee was furnished a copy of this statement.

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information), the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Section 190-7 of this manual.

EFFECTIVE: 08/08/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 3

173-4 PUBLIC ACCOMMODATIONS

Section 201. Provides injunctive relief against discrimination because of race, color, religion, or national origin in places of public accommodations; i.e., establishment offering lodging or food for consumption on the premises, gasoline station, and place of entertainment if its operation affects commerce or if discrimination or segregation by it is supported by state laws.

EFFECTIVE: 12/08/78

173-4.1 Establishments Covered

(1) Inn, hotel, motel, or other establishment which provides lodging to transient guest, other than an establishment within a building which contains not more than five rooms for rent or hire and a portion of such establishment is actually occupied by the proprietor. (Category 1)

(2) Restaurant, cafeteria, lunchroom, lunch counter, soda fountain; or any gasoline station. (Category 2)

(3) Motion-picture house, theater, concert hall, sports arena, stadium, or other places of exhibition or entertainment. (Category 3)

(4) Any establishment which is physically located in any covered establishment; e.g., a barbershop in a motel or hotel. (Category 4)

(5) Private clubs are exempt except to the extent to which they open their facilities to an establishment covered by the act. (See instructions below for "Private Clubs" and "Private Facilities" under Category 4.)

EFFECTIVE: 12/08/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 4

173-4.2 Preliminary Investigations

(1) By memorandum dated 10/25/78, the Civil Rights Division (CRD) advised that responsibility for enforcement of Public Accommodations Statutes (Title II, Civil Rights Act of 1964) has been transferred from the Department of Justice to the respective USAs in districts where alleged violations occur. The CRD instructs that all new public accommodation complaints received by the FBI and all LHMs and/or investigative reports be sent directly to the USA in the district where violation occurred. Any request for investigation of alleged Title II violations received from the USA's Office should be conducted without prior approval of the CRD. The CRD will retain review authority over public accommodations matters consistent with its general supervisory responsibility for civil rights matters (USA Manual 8-1.000) and desires copy of LHM or report; submit two copies of reports and three copies of LHM to FBIHQ for dissemination.

(2) The CRD also directed the FBI conduct preliminary investigation of alleged violations upon receipt of a complaint from a citizen. When conducting a preliminary investigation, follow instructions set out below for the particular category of establishment involved. Notify FBIHQ and appropriate USA in writing when instituting investigation in these matters.

(3) A CRD memorandum of 6/22/78, to the Director, FBI set forth guidelines for conducting preliminary investigations relating to public accommodations. The Department notes these instructions will supersede and replace all prior memoranda covering "standard" preliminary investigations under Title II of the Civil Rights Act of 1964. The standard preliminary investigation is normally to be completed in full. Throughout the guidelines below the words "blacks and Hispanics" are used and where appropriate these words should be read to refer to whatever race, color, religion, or national origin is alleged to be the basis of the discrimination.

(4) The Department's instructions for investigation are as follows:

"The ownership of any establishment or facility should always be established although not specifically requested under each category. Where the complaint originates with the FBI, and statements are obtained from the victims of the details of the incident, the victims need not be reinterviewed unless a specific request is made to do so. The following investigation will comprise the standard preliminary investigation applicable to all types of facilities.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 5

"Section 201(b) of the Act sets forth four categories of establishments which are subject to coverage under Title II. The investigation requested for each category will be listed separately.

"Category (1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests.

"a. If it is initially determined that the establishment has no more than five rooms and a portion of the establishment is actually occupied by the proprietor, it is not covered under the Act. However, prior to terminating the investigation, determine whether Category (4) applies and, if so, follow the instructions listed under that category. Otherwise proceed as follows:

"b. If the complaint alleges a refusal of accommodations because of race, color, religion, or national origin.

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Interview the manager or proprietor concerning the present policy of renting rooms to blacks, Hispanics, etc., and ascertain the number and type of accommodations, if any, which were available at the approximate time of the victim's arrival. Note the type of records used to record and retrieve this information and, if permitted, personally check the records for confirmation. (It is a common practice to hold non-guaranteed reservations only until 6:00 p.m. or shortly thereafter. Accordingly, rooms may be available after 6:00 p.m.) Determine if it is a policy to notify prospective guests of this information and whether the victim was so notified.
- "iii) If it is determined that vacancies were available, interview the desk clerk who was on duty at the time and ascertain the reason the victim was not given accommodations.
- "iv) Determine whether the subject establishment

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 6

has ever followed, for any reason, a custom or policy of refusing accommodations to blacks, Hispanics, etc. If so, ascertain the approximate period of such custom or policy and the reasons therefor.

"v) Interview a representative number of non-management employees, minority and non-minority, preferably away from the establishment as to their knowledge of a practice of refusing accommodations to blacks, Hispanics, etc.

"vi) Note the presence and location of any discriminatory signs and photograph same.

"vii) Ascertain the name and address of the owner or owners of establishment. If the owner is a corporation, ascertain the name and registered address of the corporation and the names and addresses of the officers and directors.

"c. If the complainant alleges discriminatory practices by the establishment, such as charging higher rates to blacks, Hispanics or other minorities, setting aside certain rooms or sections for the accommodation of blacks, Hispanics, etc., or discourteous treatment or service by employees,

"i) Interview the victim and any witnesses for specific details.

"ii) Interview the employee or employees involved.

"iii) Interview the proprietor or manager as to his knowledge of the incident of discourteous treatment or service. Also, determine his knowledge of any other discriminatory practices and ascertain who is responsible for the existence of such discriminatory practices.

"iv) Interview a representative number of employees, particularly room maids and bell hops, preferably away from the

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 7

establishment, as to their knowledge of such discriminatory practices, whether the management is aware of such practices, how long they have been occurring, and whether they occur frequently.

"Category (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of a retail establishment. (Upon receipt of complaints regarding gasoline stations, the Department should be solicited, through FBIHQ, for specific guidelines.)

"a. Determination of Discrimination or Segregation

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Identify and interview the employee or other person involved in the particular incident as to his or her version of what occurred. Ascertain if the employee is under any instructions as to providing service to blacks, Hispanics, etc., or whether it is a custom or practice of the establishment to refuse service to blacks, Hispanics, etc., or to provide discriminatory service such as maintaining separate areas for blacks, Hispanics, etc., or providing carry out service only.
- "iii) Interview other employees of the establishment as to the custom or practice of providing service to blacks, Hispanics, etc., and what instructions they are under regarding same.
- "iv) Interview the owner, manager or proprietor regarding his or her knowledge of the incident. Ascertain what the present policy of the establishment is with respect to serving blacks, Hispanics, etc. Determine how long the policy has been in effect and the details of any previous policy different from the present.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 8

"v) Determine whether the establishment maintains separate serving areas customarily used by minorities. If so, prepare a simple diagram of the establishment showing the location of the separate area with respect to the main area, the location of any separate entrance, separate washroom facilities, and any signs designating the area for use by minorities. Photograph the exterior and interior of both the main and separate area and any signs.

"vi) Interview a representative number of minority patrons who utilize the separate area and ascertain (a) How long have they patronized the establishment. (b) Have they at any time sought or received service in the main area. (c) Have they ever sought and been refused service in the main area. (d) Have they ever observed or know of other minorities who have either requested or have been denied service in the main area. (e) What is their understanding of the establishment's policy with respect to serving minorities in the main area. (f) What is their reason for utilizing the separate area, i.e., do they feel they would be refused service in the main area, treated discourteously, or charged different prices for the same services and (g) if the utilization of the separate area is a carry over from past segregated laws or customs which existed prior to the passage of the Civil Rights Act of 1964, have they at any time since 1964 been notified by the establishment that they could be served in the main area.

"vii) Where there are no dual facilities and the only witness is the victim, if the owner or proprietor denies any policy of discrimination, interview a representative number of black residents in the community and other minorities, if appropriate, as to their knowledge of a discriminatory policy

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 9

at the establishment.

"b. Coverage:

- "i) Any establishment under this category located on an Interstate of United States Highway is automatically covered and no further investigation on coverage is required.
- "ii) Any establishment which is adjacent to an airport, bus terminal or train station is automatically covered.
- "iii) Any establishment which is in the immediate vicinity of an airport, bus terminal, or train station is, in most cases, automatically covered. However, it is necessary to show that these establishments serve or offer to serve travelers who use these facilities. Coverage would be established if the establishment acknowledges that they serve or offer to serve travelers using these facilities. The management of such establishment should be questioned concerning their policy. If the response is negative or equivocal, then complete the following investigation on coverage which applies to all establishments in this category not mentioned above.
- "iv) Obtain from the owner or manager, a dollar amount of his expenditures for food and non-alcoholic beverages for each of three months preceding the investigation. From this statement, identify the most costly items purchased, such as meats, poultry, seafoods, dairy products and produce. Obtain the names and addresses of the suppliers of these products and interview them as to the source (in-state or out of state) of these products. In most instances, the immediate supplier will be able to furnish this information. If not it will be necessary to follow through on the immediate suppliers source until it can definitely be

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 10

established whether the goods moved in interstate commerce. Copies of records of purchases from suppliers should be made if it appears that the records will not be maintained for at least six months from the date of the investigation.

- "v) If any facility under this category claims to be a private club, unless otherwise indicated, it will be sufficient to obtain information to show whether membership is open to the general public, except blacks, Hispanics, etc., whether members have any voice in the operation of the facility including passing on new members and whether the facility is actually owned by others than the members. If there is a membership requirement, how are members selected.

"Category (3) Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment:

"a. Determination of Discrimination or Segregation

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Interview the owner, manager, or proprietor regarding his or her knowledge of the incident. Ascertain the facility's present policy with respect to admitting blacks, Hispanics, etc., or permitting blacks, Hispanics, etc., to participate in any functions conducted by or held within the premises of the facility.
- "iii) Identify and interview the employee or other person involved in the incident as to his or her version of what occurred. Ascertain if the employee is under any instructions as to admitting blacks, Hispanics, etc., or permitting blacks, Hispanics, etc., to participate in functions conducted by or held within the premises of the facility, or whether to the knowledge of the employee, it is a policy, practice, or custom to refuse

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 11

equal service to blacks, Hispanics, etc.

- "iv) Interview other employees of the facility as to the practice, policy or custom of admitting blacks, Hispanics, etc., to the facility or permitting blacks, Hispanics, etc., to participate in any functions conducted by or held within the premises of the facility, or to refuse equal service to blacks, Hispanics, etc.

"c. Coverage:

- "i) With respect to theaters which commonly present motion picture films, determine the name of the distributor of the films presented. Interview the distributor and ascertain the out of state source of all films shown within the past six months.
- "ii) With respect to theaters and concert halls which commonly present entertainment other than motion picture films, determine the type of entertainment which is commonly presented. Ascertain the particular event which was being presented at the time of the incident and the name of the person or group who was performing and whether they were from out of state. Also, ascertain a description of all performances which were presented within the past six months, the name of the person or group and whether they were from out of state. As to all performances presented within the past six months, obtain the name and address of the agency which booked the performance.
- "iii) With respect to bars, lounges, or other similar facilities;
 - "1) Ascertain if any live entertainment is presented and, if so, obtain the information requested in ii) above.
 - "2) Identify any mechanical sources of entertainment (e.g., pool tables and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 5

(g) Specific comment that Secret Service, ATF, USA and appropriate law enforcement and other logical agencies have been advised; also, that ATF advised as to whether or not FBI instituting investigation. Notice to military intelligence agencies is not required unless they have a specific interest in the incident or unless dissemination otherwise required by the "Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with Federal Bureau of Investigation" (see Appendix 3 of the FCI Manual) or the Memorandum of Understanding between Justice and Defense Departments.

(3) In those explosive incidents which are likely to receive nationwide publicity and wherein it is not immediately known if an actual bombing has occurred or if the incident is within FBI jurisdiction, furnish FBIHQ with background and details by teletype.

EFFECTIVE: 09/22/87

174-3.2 Bomb Threats

(1) Immediately advise appropriate law enforcement agencies and Secret Service. Refer to 174-3.1 (2) (g) above regarding notice to military intelligence agencies.

(2) If a bomb threat is directed against Bureau facilities or personnel, all logical leads to identify subject are to be covered immediately. Bureau space, if involved, should be searched by Bureau personnel familiar with the specific area. An assessment of any suspicious item should be made by an FBI bomb technician, bomb squad personnel, or military Explosive Ordnance Disposal (EOD) unit. Render safe responsibilities for located bomb devices rest with the bomb squad personnel or military EOD unit. Each field division should have a bomb threat plan.

(3) Notify FBIHQ in the following instances:

(a) By teletype, if threat concerns a diplomatic establishment or a situation which may result in widespread publicity.

(b) By teletype, if threat results in request by local authorities or private citizen for FBI investigation.

(c) By teletype, if threat is directed against

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 10

174-8 PENALTIES

(1) Section 844(d), (f), and (i).

(a) \$10,000 fine and/or 10 years' imprisonment.

(b) \$20,000 fine and/or 20 years' imprisonment if personal injury results, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection.

(c) Any terms of years or death penalty or life imprisonment if death results.

(2) Section 844(e) - \$5,000 fine and/or 5 years' imprisonment.

(3) Section 844(g) - \$1,000 fine and/or 1 year imprisonment.

(4) Section 844(h)

(a) Not less than 1 nor more than 10 years' imprisonment.

(b) For second and subsequent convictions, not less than 5 nor more than 25 years' imprisonment and there shall be no suspended or probationary sentences.

EFFECTIVE: 09/22/87

174-9 CHARACTER - "BOMB THREATS" OR "EXPLOSIVES AND INCENDIARY DEVICES"

EFFECTIVE: 09/22/87

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 12

related equipment, pin ball machines, juke boxes or other devices providing music).

- "3) Determine the name and address of the manufacturer and supplier of such sources of entertainment. If readily ascertainable, determine the manufacturer's serial number of any source of entertainment.

- "4) If any facility under this category serves food, ascertain the dollar amount of purchases from all sources for the past three months. From this amount, determine the dollar amount which represents food purchases. Obtain the names and addresses of the principle suppliers of food products and interview the suppliers to determine the dollar amount of such purchases which originated from out of state.

- "iv) With respect to all other places of exhibition or entertainment, such as athletic fields, parks, playgrounds, swimming pools, beaches or lakes;

- "1) Ascertain whether such facilities present events which are engaged in, utilized by, or available to persons from out of state.

- "2) Ascertain whether the facility utilizes equipment of any kind, (e.g., golf carts or equipment roller or ice skates, automatic bowling pin setters or bowling pins, boats, ramps, boating equipment, diving boards or other swimming equipment) or any other type of recreational devices or equipment which originated from out of state.

- "3) Determine the name and address of the manufacturer and supplier of all such

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 13

entertainment devices or equipment.

"4) Determine what facilities (e.g., benches, seats or other designated areas) exist for patrons either to watch any entertainment presented or to observe any other patrons entertaining themselves by use of such recreational devices or equipment.

"5) If any facility under this category serves food, ascertain the dollar amount of purchases from all sources for the past three months. From this amount, determine the dollar amount which represents food purchases. Obtain the names and addresses of the principle suppliers of food products and interview the suppliers to determine the dollar amount of such purchases which originated from out of state.

"v) In many instances, athletic and sporting events are provided for local groups such as Little League, Babe Ruth and other such groups or teams, youth and adult. In these circumstances, it will be necessary to identify and interview the sponsors of the teams and ascertain their policy with respect to participation by blacks, Hispanics, etc.

"vi) In the event any of the above facilities under this category or groups, teams, etc., utilizing such facilities claim to be private clubs, conduct the additional investigation listed below under "private clubs," unless otherwise requested.

"Category (4) Any establishment which is physically located within the premises of any establishment otherwise covered by this statute or within the premises of which is physically located any such covered establishment and which holds itself out as serving patrons of such covered establishment.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 14

"a. In most cases, this category will involve covered establishments such as hotels and motels, which have located on or within their premises other establishments which would not otherwise be covered, such as barbershops, beauty parlors, and bars. In such circumstances, the principal establishment is automatically covered. As to the other facilities it is only necessary to show that they serve or offer to serve patrons of the covered establishment. Some facilities such as bars or lounges will maintain that they are private clubs. However, if patrons or guests of the principal establishment are freely offered membership or service in the other establishment, it may be assumed without further investigation, that such facilities are covered.

"b. Private Clubs:

- "i) Obtain, if available, a copy of the club's bylaws or charter;
- "ii) Determine the legal entities involved in the ownership of the property and management of the club (e.g., corporation, partnership, unincorporated association, sole proprietorship) and the names, addresses, and race of persons involved (e.g., partners); determine the present club officers and methods by which they were selected;
- "iii) Determine whether any numerical limit is set upon membership in the club;
- "iv) Determine whether payment of any dues, annual or lifetime, is required in connection with membership in the club, and, if so, in what amount;
- "v) Obtain a copy of any membership list that is maintained;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 15

- "vi) Ascertain the number of members of the club and whether there are any non-white members; if there are, obtain their names and addresses;
- "vii) Determine all details of the procedures by which a person or family makes application for membership in, and is admitted to, the club;
- "viii) Ascertain what qualifications, if any, a prospective member must meet to be eligible for membership and what items, if any, disqualify him;
- "ix) Determine whether the recommendations of existing members are required from prospective members;
- "x) Determine what control, if any, existing members have over the admission of applicants for membership, (e.g., whether there is a membership committee selected by the members to represent them), if such a membership committee exists, obtain the names and addresses of its members, whether there is a blackball system by which one or more individual members can reject an applicant even though he might have been recommended by another member or members, whether notice of pending applications is given to existing members, whether existing members are notified after an applicant has been admitted;
- "xi) Ascertain whether the members exercise control over the financial operations of the establishment and to what extent (e.g., do they own any of the property, do they determine how the revenues from the establishment's operations are used, are these revenues retained by the establishment's manager);
- "xii) Ascertain whether the club advertises in any

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 16

manner and, if possible, obtain copies of all advertisements. If copies cannot be obtained, please describe the advertisements, including whether such advertising indicates in any way that the subject establishment is a private club not open to the general public;

- "xiii) If the subject establishment is listed in the local telephone directory, determine whether its listing can be distinguished from any other restaurant or other place of public accommodation and whether it is designated as a private club;
- "xiv) Determine the established procedures, if any, for permitting non-members or guests of members to use the subject establishment's facilities (e.g., whether non-members can rent the facilities of the club); and
- "xv) Determine whether the establishment has ever been operated on some basis other than a private club. If so, please obtain all details, including date of, and reasons for, the purported change to a private club.

"b. (1) Private Club Facilities

"This group will involve bona fide private clubs which operate facilities which may be open to the public. Such groups will include organizations which are clearly private, such as fraternal or military organizations (e.g., Elks and Moose Lodges, the VFW and the American Legion). In order to determine whether the facilities they operate are open to the public and therefore within the coverage of Title II, conduct the following investigation:

- "i) Ascertain what precise policy is followed in admitting guests to the facility.
- "ii) May non-members of the club be admitted who are not invited by members.
- "iii) What procedure is followed in determining whether a non-member is authorized to be

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 17

admitted.

- "iv) If any customers are present on the premises, interview a representative number and ascertain if they are members or guests of members. If they are neither, ascertain under what circumstances they were permitted to enter, whether and how often they have patronized the establishment in the past, and whether they were ever asked to show whether they were guests of members. If they claim to be guests of members, determine the procedure they are required to follow in order to be admitted (e.g., required to sign a guest book or required to be accompanied by the member, etc.)."

EFFECTIVE: 12/08/78

173-4.3 Copies of Communications and Deadlines

Submit two copies of a report to FBIHQ within
| 21 | workdays | of receipt of a complaint.

EFFECTIVE: 04/08/80

173-4.4 Repeated Complaints - Same Establishment

Where the same accommodation is involved in numerous refusals of service, one case may be opened and victims and dates added to the title as complaints are received. When logical investigation has been completed, case may be closed, subject to reopening when additional complaints are received.

EFFECTIVE: 04/08/80

173-5 PUBLIC EDUCATION

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 18

EFFECTIVE: 04/08/80

173-5.1 Definition

A place of public education is any education institution operated by a state, any subdivision of a state, any Government agency within a state, or operated wholly or predominantly from or through the use of governmental funds or property derived from a governmental source.

EFFECTIVE: 04/08/80

173-5.2 Basis of Complaint

Take the following action upon receipt of a complaint alleging discrimination because of race, color, sex, religion, or national origin in a place of public education.

(1) Interview complainant and take signed statement to include:

(a) Pertinent personal history and background information.

(b) Full details of the alleged discrimination.

(c) All information the complainant has regarding the operation of the public school or public school system on a discriminatory basis and the identities of any other persons who have sought the use of the school on a nondiscriminatory basis.

(d) Full details of any other efforts made by the complainant or others on complainant's behalf to rectify the alleged discrimination and the ability or inability of the complainant to bring legal action on his/her own behalf or through some interested organization. In this connection the complainant should not be asked whether, in his/her opinion, he/she is able or unable to sue, inasmuch as this would be a legal conclusion. Complainant should, however, be asked for general information regarding his/her employment, whether he/she owns home and automobile; if so, to furnish description of the house and automobile. Also how many dependents the complainant supports and whether he/she is a member of any civil rights

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 19

organization that provides legal counsel in this type of case.

(2) If the complainant refuses to submit a signed statement, take no further action and submit an LHM setting forth facts of complaint and details of the interview.

EFFECTIVE: 04/08/80

173-5.3 Preliminary Investigation

(1) Interview a representative number of other victims named by the complainant.

(2) Interview the superintendent or other appropriate person or persons responsible for operation of the school to determine:

(a) Full details of situation described by complainant.

(b) What policy and practice have been followed with respect to operating in a nondiscriminatory manner.

(c) Whether any change in such policy or practice is contemplated.

EFFECTIVE: 04/08/80

173-5.4 Reporting Deadline

Submit report within 21 workdays of receipt of the complaint.

EFFECTIVE: 04/08/80

173-6 PUBLIC FACILITIES

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 20

EFFECTIVE: 04/08/80

173-6.1 Definition

A public facility is one other than a place of education which is owned, operated or managed by or on behalf of any state or subdivision thereof.

EFFECTIVE: 04/08/80

173-6.2 Basis of Complaint

Take the following action upon receipt of a complaint alleging discrimination because of race, color, religion, or national origin in a place of public facility.

(1) Interview complainant and take signed statement to include:

- (a) Pertinent personal history and background information.
- (b) Full details of the alleged discrimination.
- (c) All information the complainant has regarding the operation of the public facility on a discriminatory basis and the identities of any other persons who have sought the use of the facility on a nondiscriminatory basis.
- (d) Full details of any other efforts made by the complainant or other on his/her behalf to rectify the alleged discrimination and the ability or inability of the complainant to bring legal action on his/her own behalf or through some interested organization. In this connection the complainant should not be asked whether, in his/her opinion, he/she is able or unable to sue, inasmuch as this would be a legal conclusion. Complainant should, however, be asked for general information regarding employment, whether he/she owns home and automobile; if so, to furnish description of the house and automobile. Also how many dependents the complainant supports and whether he/she is a member of any civil rights organization that provides legal counsel in this type of case.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 21

(2) If the complainant refuses to submit a signed statement, take no further action and submit an LHM setting forth facts of complaint and details of the interview.

EFFECTIVE: 04/08/80

173-6.3 Preliminary Investigation

(1) Interview a representative number of other victims named by the complainant.

(2) Interview the manager or other appropriate person or persons responsible for operation of the facility to determine:

(a) Full details of situation described by complainant.

(b) What policy and practice have been followed with respect to operating in a nondiscriminatory manner.

(c) Whether any change in such policy or practice is contemplated.

EFFECTIVE: 04/08/80

173-6.4 Reporting Deadline

Submit report within 21 workdays of receipt of the complaint.

EFFECTIVE: 04/08/80

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 22

173-7 EMPLOYMENT

Section 703. Prohibits discrimination in employment because of race, color, religion, sex, or national origin. Prohibited acts extend to hiring, firing, promotions, wage scales, and all other conditions of employment, including discrimination on the basis of pregnancy, childbirth, and related medical conditions. Exemptions are granted for legitimate occupational qualifications based upon religion, sex, or national origin only. Discrimination is not punishable as a crime but the aggrieved person, Equal Employment Opportunity Commission (EEOC), or under certain conditions, the Attorney General may file civil suit. EEOC was established to receive and adjudicate complaints.

EFFECTIVE: 04/08/80

173-7.1 Establishments Covered

- (1) Business establishments affecting commerce and having 15 or more employees
- (2) Employment agencies procuring employees for the above firms
- (3) Labor unions in industries affecting commerce
- (4) State and local governments, agencies, political subdivisions and the District of Columbia departments and agencies which are not subject by law to the Federal Competitive Services.
- (5) Federal Government employment (handled by EEOC)
- (6) Exceptions: The Act does not apply to state or local elected officials, persons chosen by such officials to be on their personal staffs, policy-making level appointees and immediate advisors of such elected officials, or to religious educational institutions. Preferential treatment may be given to Indians on or near an Indian reservation.

EFFECTIVE: 04/08/80

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 23

173-7.2 Investigation - Private Employer or Labor Union

Investigation to be conducted upon receipt of a complaint:

(1) Complaint against private employer or labor union representing employees of private employer or private employment agency

(a) Advise complainant such violations are handled by EEOC

(b) Advise complainant if he/she wishes to pursue matter with EEOC, he/she should do so within 180 days of the alleged discrimination

(c) Furnish complainant with location of nearest EEOC office

(2) Complaint against state or local government and educational institution or unions representing government employees or public employment agencies, such as state employment services. Conduct preliminary investigation under each category as set forth.

EFFECTIVE: 10/09/79

173-7.3 Preliminary Investigation

EFFECTIVE: 10/09/79

173-7.3.1 Employer

Where complaint involves any actions or practices of the employing governmental entity, interview complainant, preferably at some place other than place of employment, and obtain following information:

(1) Full background of complainant for all details that might bear on his/her qualifications or eligibility for employment or promotion by the subject employer, including age, sex, race, education, previous employment experience and length of time, if any, he/she has worked for subject employer.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 24

(2) Nature of subject employer (e.g., city, county, irrigation district), approximate number of employees, and approximate percentage of female and minority employees employed by the jurisdiction or unit involved. Ascertain whether office or installation where complainant works is located near or in a minority neighborhood.

(3) Full details of complaint.

(4) If complainant is or has been working for subject employer, as would be true if complainant complains of discriminatory promotion or discharge policies:

(a) Complainant's present job category and department and any previous jobs and departments indicating length of time in each.

(b) Complainant's wage category and its position relative to other wage categories of the employer.

(c) Complainant's duties, and whether any white persons, in the case of a race complaint, or males or females as appropriate, in the case of a sex complaint, perform or have performed similar duties.

(d) Number of minority and female employees in complainant's job category or department; and in other job categories and departments of which complainant is aware.

(e) Names of other minority or female employees who work for employer and departments and job categories to which they are assigned, if known.

(f) Complainant's understanding of the operation of the promotion, recall and layoff systems, if any.

(g) Total number of departments, seniority lines, production areas and any other information known about structure of employer or employing agency.

(5) If complainant is not and has never worked for the employer, but instead is alleging discrimination in hiring:

(a) Date on which he or she applied for the job

(b) Method by which he or she found out about

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 25

availability of the job or decided to apply for a job

(c) Whether he or she was required to take any test and, if so, nature of the test

(d) Name of person, if any, who interviewed him or her

(e) Whether he or she submitted written application

(f) Any other steps he or she was required to take to complete employment and application process

(g) When and by what means notification or rejection for employment given

(6) If employing agency is unionized, ascertain name of union, how many members it has, percentage of minority or female members, whether complainant in question was brought to attention of the union and what action, if any, was taken by the union on complaint.

(7) Determine whether similar complaint has been filed with any other Federal or state or local agency and, if so, details including date on which it was filed, and disposition, if any, which that agency has made.

(8) Determine whether complainant knows any other minority group persons or females who have been similarly affected by subject employer, and, if so, their names and dates of alleged discriminatory conduct.

(9) Obtain copies of any pertinent written material or documents that complainant may have in his/her possession, such as copies of applications to employer and correspondence from it.

EFFECTIVE: 06/08/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 26

173-7.3.2 Unions

When complainant appears to involve any actions or practices of union which represent or seeks to represent employees of a governmental employer, interview complainant, preferably away from place of employment and obtain following information:

(1) Full background of complainant including all details that might bear on qualifications for membership in subject union or for referrals by subject union, such as age, sex, race, education, previous employment, experience, and any municipal licenses
|complainant|may possess qualifying |him/her|to work in the trade.

(2) Nature of subject union, that is whether it is an industrial union representing employees in a plant or craft (or building trade) union. If it is a craft union, ascertain from complainant whether union operates a hiring hall and, if so, details about operation of the hiring hall.

(3) Full details of complaint

(4) If complainant was seeking membership in the union:

(a) Type of membership|complainant|was seeking,
|i.e., whether|complainant|was seeking apprentice status or journeyman status

(b) Whether|complainant|made any written applications to the union and if so, dates of those applications

(c) How|complainant|came to make application to the union, i.e., whether referred by friend or relative, interested organization, or employment service

(d) Whether|complainant|was required to take any examination and nature of examinations

(e) Whether there was|an|interview and, if so,
|person who |conducted|interview

(f) Whether|complainant|was notified of acceptance and, if so, when and how, and whether|complainant|has had any further contact with the union

(5) If complainant was claiming discrimination in some practice of subject union other than that relating to admission to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 27

membership in the union, determine whether it related to operation of grievance procedures, work referral system, a work permit system, or some other union function and ascertain details of alleged discriminatory practice.

(6) If on any previous occasion complainant sought membership, to be referred for work, utilize grievance procedure or other service benefit from subject union, ascertain all dates upon which such occurred and full details about each of these contacts with the union.

(7) Whether there are black or other ethnic minority members, or female members of the union or who are working under auspices of the union. If so, ascertain the names of those persons from interviewee.

(8) Whether similar complaint was filed with any state or local agency or any other Federal agency and, if so, details including date on which it was filed, and disposition made of it, if known.

(9) Obtain copies of any written material or documents that complainant may have in his/her possession pertaining to complaint or to complainant's contact or connection with subject union.

EFFECTIVE: 06/08/78

173-7.3.3 Employment Agencies

When complaint appears to question practices of any public employment agency, such as a state employment service, interview complainant at some place other than place of employment, and obtain following information:

(1) Full background of complainant including all details regarding qualifications for employment, such as age, sex, race, education, previous employment experience.

(2) Nature of employment agency, and types of jobs to which it generally refers persons. Ascertain whether employment agency's office is in minority neighborhood.

(3) Full details of complaint

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 28

(4) Type of job for which complainant sought employment.
Ascertain whether complainant had any previous experience in such jobs.

(5) Type of job to which complainant was referred, indicating nature of work and level of pay, whether any other minority or female person held similar jobs.

(6) If complainant was not referred to job, what reasons complainant was given for the failure or inability for referral. Ascertain whether complainant was refused referral on any previous occasion and, if so, details.

(7) Previous experience with employment agency, including whether complainant was ever referred to any other job and, if so, nature of those jobs and dates of referrals.

(8) Full details about contact with employment agency including applications and other forms filled out, the name of person who interviewed complainant, what jobs possibilities were mentioned, and whether complainant was advised formally or informally that certain jobs about which complainant had expressed interest would not be available to complainant.

(9) Whether complainant knows any other minority group persons or females who have been similarly affected by subject employment agency and, if so, their names and dates of alleged discriminatory conduct.

(10) Obtain copies of any written documents that complainant may have in possession relating to contact or dealings with employment agency.

EFFECTIVE: 06/08/78

173-7.4 Advise All Complainants

EFFECTIVE: 04/19/91

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 29

173-7.4.1 Information

Advise complainant that information furnished will be forwarded to the U.S. Department of Justice.

EFFECTIVE: 04/19/91

173-7.4.2 Existence

Advise complainant of existence of any appropriate state law or local ordinance and refer complainant to appropriate state or local agency. Also, that in order to obtain relief on his/her individual grievance, he/she should file complaint with EEOC, and this must be done within 180 days after the alleged discrimination occurs. Include fact that complainant has been so advised in investigative report.

EFFECTIVE: 04/19/91

173-7.5 Copies of Communications and Deadlines

Submit two copies of a report to FBIHQ within 21 days of receipt of complaint.

EFFECTIVE: 04/19/91

173-8 INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES RELATING TO PUBLIC ACCOMMODATIONS, PUBLIC FACILITIES, PUBLIC EDUCATION, AND EMPLOYMENT

(1) Where interference consisting of force or threat of force prohibited by Title 18, USC, Section 245, is involved, handle in accordance with provisions of Section 44-4 of this manual using appropriate Civil Rights Act of 1964 character and submitting two copies of report to FBIHQ.

(2) Where other interference is alleged, such as by coercion, intimidation, and economic pressure, submit LHM to FBIHQ and take no further action.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 30

(3) The employment provisions of this act require a specified minimum number of employees to establish jurisdiction. No such minimum number is required under provisions of Title 18, USC, Section 245, relating to interference with employment.

(4) Title 18, USC, Section 245, covers all public accommodations as defined by Civil Rights Act of 1964 and also covers an establishment which serves the public and which is principally engaged in selling beverages for consumption on the premises, e.g., a bar.

EFFECTIVE: 04/19/91

173-9 ANNOUNCED TESTING OF ACCOMMODATIONS OR FACILITIES

(1) When information is received that persons are planning to test the practices of a facility or accommodation in a community in which the free use of such facilities or accommodations has previously been interfered with by force or threats, submit teletype to FBIHQ. Do not assign personnel to observe such testing and/or photograph acts of interference or obstruction in the absence of specific prior FBIHQ authority.

(2) If there is interference involving personal injury, threat of serious injury, or substantial damage to property, or if a complaint is received concerning refusal of service, initiate a preliminary investigation and submit a report within 21 days.

(3) If there is no interference or refusal of service, submit an LHM (original and two copies) setting forth the details of the testing.

(4) Where your office receives advance notice of testing of public accommodations or public facilities and there is no indication there will be any interference, obtain details concerning the testing and promptly furnish an LHM (original and two copies).

(5) No commitments are to be made to groups which advise your office of plans to test accommodations or facilities that Agents will or will not be present to observe and photograph such demonstrations.

(6) Furnish copy of LHM in both of the above instances to the local office of military intelligence if within scope of present

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 31

requirements to do so, and advise appropriate local authorities orally.

EFFECTIVE: 04/19/91

173-10 PENALTIES

There are no substantive criminal penalties attached to discrimination prohibited by the act. The aggrieved person, or in some instances the Attorney General, may seek relief through civil action. Written complaints with regard to public facilities and public education are subject to the provisions of Title 18, USC, Section 1001. A \$100 fine is provided for failure on the part of an employer, employment agency, or labor union to post notices required by the Equal Employment Opportunity Commission; however, this violation will be handled by the Commission.

EFFECTIVE: 04/19/91

173-11 MISCELLANEOUS

(1) All deadlines are counted by commencing on the first day following receipt of complaint, i.e., complaint received 8-1-82 - Sunday, submit 8-22-82.

(2) The first paragraph of the details of the report should so indicate if the investigation is limited or preliminary. A limited investigation is one other than a preliminary, or mere receipt of a complaint.

(3) Furnish a copy of all reports and LHMs to the USA.

(4) Retain one copy in the field office file.

(5) Note that a business, such as a department store, which would not normally be covered by the act is completely covered if it has a lunch counter or some other subsidiary unit which would be covered by the act. A barbershop is not normally covered, but a barbershop in a hotel or any other place subject to the provisions of the act would likewise be covered.

(6) Discrimination is not limited to refusal to admit or

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 32

serve but includes any indifference in the nature or extent of services or prices charged.

(7) Information concerning discrimination obtained solely from legitimate news media, personal observation by Bureau personnel, or from any other source not known to be unreliable should immediately be submitted to FBIHQ in a form suitable for dissemination. If the information is obtained from published material, it will be sufficient to submit two copies of the clipping by cover airtel. No other action should be taken in the absence of a complaint with the exception of information indicating interference which should be handled in accordance with 173-7.2 above.

(8) Any instance of interference or violence or potential interference or violence in connection with the desegregation of public schools, public accommodations, public facilities, and employment under the provisions of the Civil Rights Act of 1964 is to be brought to the immediate attention of appropriate state and local officials. Also advise military intelligence and Secret Service if within scope of present requirements to do so. The initial communication to FBIHQ should show that this has been done.

(9) Upon receipt of a complaint, a request for investigation by the USA or a request for investigation by the U.S. Department of Justice, the field division must promptly submit Form FD-610 within five (5) workdays of receipt of complaint). All items on the form are to be completed on the initial submission or later by supplemental submission. This action is to be taken prior to the close of each case in all Civil Rights matters. Along these lines, the field division should make an effort to provide the maximum amount of information if all data is not immediately available. Submit a supplemental form when additional information necessary to complete the form is secured. In those instances where FBIHQ is advised by telephone or teletype of a new case, the FD-610 should be submitted at the earliest possible moment. Specific instructions regarding the completion of the FD-610 are set forth in Part I, 282-8.1 of this manual.

EFFECTIVE: 01/31/94

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 33

173-12 CHARACTER

- (1) PUBLIC ACCOMMODATIONS - CIVIL RIGHTS ACT OF 1964
- (2) PUBLIC FACILITIES - CIVIL RIGHTS ACT OF 1964
- (3) PUBLIC EDUCATION - CIVIL RIGHTS ACT OF 1964
- (4) EMPLOYMENT - CIVIL RIGHTS ACT OF 1964

In cases of interference involving attempted or actual use of force or
the threat of force, add INTERFERENCE WITH FEDERALLY PROTECTED
ACTIVITIES to character.

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 1

SECTION 174. BOMB THREATS
EXPLOSIVES AND INCENDIARY DEVICES

174-1 STATUTES

Title 18, USC, Section 844(d) - (j), effective 10/15/70,
amended 10/12/82, amended 10/12/84 by Public Law 98-473.

(1) Section 844(d) - Interstate transportation or
receipt of explosives or incendiary devices with knowledge or intent
to kill, injure or intimidate a person or damage property.

(2) Section 844(e) - Use of telephone,
mail, telegraph, or other instrument of commerce to transmit a fire or
bomb threat, or maliciously conveys false information knowing the same
to be false.

(3) Section 844(f) - Use of explosives, fire or
incendiary devices to damage or destroy, or attempt to damage or
destroy, any property owned, used by, or leased to, the U.S.
Government, or any department or agency thereof, or any institution or
organization receiving Federal financial assistance.

(4) Section 844(g) - Unauthorized possession of
explosives or incendiary devices in a building owned, used by, or
leased to, the U.S. Government or any department or agency thereof.

(5) Section 844(h) - Carrying explosives or incendiary
devices during the commission of any Federal felony, or use of fire
during the commission of a felony.

(6) Section 844(i) - Use of explosives, fire or
incendiary devices to damage, or attempt to damage, any property used
in an activity affecting interstate or foreign commerce.

(7) Section 844(j) - For the purposes of subsections (d),
(e), (f), (g), (h), and (i) of this section, the term "explosive"
means gunpowders, powders used for blasting, all forms of high
explosives, blasting materials, fuzes (other than electric circuit
breakers), detonators, and other detonating agents, smokeless powders,
other explosive or incendiary devices within the meaning of paragraph
(5) of Section 232 of this title, and any chemical compounds,
mechanical mixture, or device that contains any oxidizing and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 2

combustible units or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

EFFECTIVE: 08/21/87

174-2 DEPARTMENTAL GUIDELINES

EFFECTIVE: 08/21/87

174-2.1 Jurisdiction

Statutory jurisdiction concerning above violations lies concurrently with FBI and Secretary of Treasury. Bureau of Alcohol, Tobacco and Firearms (ATF) handles Treasury's investigative responsibilities under above statute. Guidelines issued by Department effective 3/1/73 provide for jurisdiction as follows:

(1) General

(a) Section 844(e), (f), and (g) - FBI.

(b) Section 844(d) and (i) - ATF.

(c) Section 844(h) - Agency having jurisdiction over underlying felony.

(2) Exceptions

(a) Violations directed against diplomatic or quasi-diplomatic functions - FBI.

(b) Violations which appear at outset to have been perpetrated by terrorist or revolutionary groups or individuals - FBI. (For the purpose of this section, the Department of Justice has defined terrorist or revolutionary groups or individuals as "Those groups or individuals whose motivation for violating the explosives statutes is political in nature rather than the desire for personal or organizational gain...")

(c) Violations directed against Treasury Department

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 3

functions - ATF.

(d) Violations directed against Postal Service functions or involving explosives sent through the mail - Postal Inspection Service.

EFFECTIVE: 08/21/87

174-2.2 Other Provisions

(1) Guidelines provide that no investigation is to be conducted unless prior authorization is obtained from the Department except in those instances noted below. In these instances the Guidelines provide authorization for immediate, full investigation by the FBI without prior consultation with the Department.

(a) Any violation which appears at outset to have been perpetrated by terrorist or revolutionary groups or individuals.

(b) Explosive (as distinguished from incendiary) bombing or attempted bombing of college or university facilities.

(c) Bombing or attempted bombing of property owned, possessed, used or leased by Federal Government, or by a Federal function such as National Guard or ROTC.

(d) Any violation of Section 844(g), except those involving Treasury or Postal Service buildings.

(e) Any violation against diplomats or quasi-diplomatic functions.

(2) Regarding 174-2.1 (2) (b) above, guidelines provide that if ATF or Postal Inspection Service has properly initiated investigation and information is subsequently developed indicating apparent involvement of terrorist or revolutionary groups or individuals, jurisdiction shall be relinquished to FBI unless Department determines that such a transfer would unduly impair further investigative efforts.

(3) Guidelines require prompt notification to the Department by the agency having investigative jurisdiction in each instance wherein an investigation is instituted under Section 844. In cases where FBI has investigative jurisdiction notification is also to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 4

be made to ATF and/or Postal Inspection Service if those agencies have a logical interest. Follow-up liaison and dissemination is to be made as necessary to avoid duplication of investigation. Also to be disseminated, in a manner not to interfere with active investigations, is information regarding types, sources, movement, and storage of explosives involved in such investigations.

EFFECTIVE: 08/21/87

174-3 POLICY

EFFECTIVE: 09/22/87

174-3.1 Bombings and Attempted Bombings

(1) Each office is to arrange, through appropriate liaison, to be advised of all bombing and attempted bombing incidents within its respective territory.

(2) Immediately advise FBIHQ by teletype of all actual and attempted bombing incidents within the investigative jurisdiction of FBI, whether explosive or incendiary. Initial communication should fully describe the nature and function of the target of the bombing and cover the following points:

- (a) Basis for FBI investigative jurisdiction.
- (b) Whether or not investigation instituted.
- (c) If investigation not instituted, identify investigating authorities.
- (d) Specific comment regarding indicated or probable motive. Include occupation and general reputation of victim if bombing directed against an individual.
- (e) Applicability of state and local laws and likelihood of state or local investigative and prosecutive action.
- (f) Whether or not there is any information indicating the bombing is part of a pattern or plan by a particular subject or against a particular victim.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 6

Bureau facilities or personnel. If Bureau space involved, indicate same searched by Bureau personnel.

(d) By airtel (FD-365) and LHM, to be submitted same day, or following workday if threat received after regular working hours, if: threat concerns a military or U.S. Government installation; identity of subject is known, alleged, or readily available; or threat appears to be part of a pattern or plan by a particular subject or against a particular victim. (See MIOG, Part I, 174-6.)

(4) Notification to Secret Service and other agencies must be confirmed in writing the same day the information regarding the threat is received. If information is received after normal working hours, written confirmation should be made the following workday. Include in confirmation the time and date of oral notifications and identify, by name, persons notified. (See MAOP, Part II, 10-4.3 & Correspondence Guide-Field, 2-5.5.11 & 3-41.)

(5) All written bomb threats are to be submitted to the Laboratory for document examination and for latent fingerprint examination, whether or not active investigation is being conducted by the FBI.

EFFECTIVE: 09/24/93

174-3.3 General Instructions

(1) Submit 4 copies of reports and 7 copies of LHMs.

(2) When active investigation is instituted, notify FBIHQ by teletype, submit initial report within 30 days and submit subsequent reports every 30 days thereafter. (See MIOG, Part I, 174-6, and MAOP, Part II, 10-4.3.)

(3) Disseminate all reports and LHMs to the USA.

(4) In those instances wherein this section requires submission of LHM to FBIHQ, a copy of the LHM should be disseminated locally to Secret Service by FD-376. Original and one copy of FD-376 should be submitted to FBIHQ with LHM.

(5) In those instances where notification to FBIHQ by

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 7

teletype is required, submission should not be delayed if all necessary information is not immediately available. Such additional information should be submitted by supplemental teletype as soon as it is available.

(6) Advise the USA telephonically of all incidents or threats reported to FBIHQ, within FBI jurisdiction. Unless circumstances dictate otherwise, such notification should be made during business hours.

(7) Bombings, attempted bombings and bomb threats constituting other substantive violations within FBI jurisdiction, such as Federal Train Wreck Statute, Destruction of Aircraft or Motor Vehicles, Civil Rights, Extortion, etc., should be handled in accordance with existing instructions pertaining to the particular violation involved. FBIHQ should be advised of the incident under appropriate substantive caption. Exceptions: Situations involving bombings or attempted bombings of Government property, and sabotage by use of explosive, are handled as 174 matters.

(8) Advise FBIHQ by teletype or telephone if ATF attempts to exercise any jurisdiction in a matter being investigated by the FBI or if any other problem is encountered with ATF.

(9) All offices should maintain liaison with military Explosive Ordnance Disposal (EOD) units and/or local law enforcement bomb squads in order that assistance can be promptly obtained if bombs or live explosives are encountered in connection with official investigations.

(10) The U.S. Army has EOD units stationed throughout the United States, including Alaska and Hawaii. These units, which have assisted the FBI in the past, have personnel qualified to disarm bombs and handle and dispose of live explosives. Due to emergency conditions, requests for assistance from Army EOD units are usually verbal. All such oral requests are to be confirmed in writing by letter addressed to the Commanding Officer of the EOD unit involved. The Army has no EOD unit in Puerto Rico. Therefore, the San Juan Office should maintain liaison with the appropriate U.S. Navy facility for the purpose of obtaining any necessary assistance.

(11) Bombs are to be rendered safe by qualified bomb disposal personnel. Render safe is the responsibility of public safety bomb squads and military EOD units. Bureau bomb technicians and Laboratory explosives specialists are available at all times for on-site consultation concerning bombs and explosives.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 8

(12) The cooperative facilities of the FBI which are made available to local authorities in bombing matters are the services of the Laboratory Division.

EFFECTIVE: 09/24/93

174-4 OTHER VIOLATIONS

The following are within the primary jurisdiction of ATF but Agents should be alert for such violations and investigative jurisdiction should be assumed by the FBI if they arise during any substantive FBI investigation.

(1) Title 26, Section 5861(d) - (f) - Unlawful manufacture, possession or transfer of a destructive device.

(2) Title 18, Sections 841-843 - Unlawful importation, manufacture, distribution or storage of explosives.

EFFECTIVE: 09/22/87

174-5 PLAN OF ACTION FOR MAJOR CASES

(1) Each office is to have a proposed plan of action which can become operative automatically whenever there is a bombing or attempted bombing which will be the subject of a major investigation.

(2) These investigations are to receive top priority under the personal supervision of the SAC and should cover all investigative steps to ensure that evidence is preserved and logical investigation instituted immediately.

(3) Immediate consideration should be given to the advisability of requesting Laboratory Division personnel to proceed to the scene.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 9

EFFECTIVE: 09/24/93

174-6 REPORTING REQUIREMENTS

(1) When active investigation is instituted, notify FBIHQ by teletype; submit initial report within 30 days; and submit subsequent reports every 30 days or as soon thereafter as possible.

(2) Submit four copies of reports to FBIHQ to allow for dissemination at the Headquarters level to U.S. Department of Justice and other appropriate agencies.

(3) Disseminate all reports to the USA.

(4) In those instances wherein this section requires submission of LHM to FBIHQ, submit seven copies of LHMs to allow for dissemination at the Headquarters level to U.S. Department of Justice; U.S. Secret Service; Bureau of Alcohol, Tobacco and Firearms and other appropriate agencies. A copy of the LHM should be disseminated locally to Secret Service by FD-376. Original and one copy of FD-376 should be submitted to FBIHQ with LHM. FD-376 should also be used when disseminating information to Secret Service in other matters concerning individuals involved in illegal bombing or bomb making.

EFFECTIVE: 09/22/87

174-7 STATISTICAL DATA

Form FD-436 is to be submitted for every incident involving the use, attempted use, or recovery of an explosive, incendiary, or "hoax" bomb device, regardless of jurisdiction.

EFFECTIVE: 09/22/87

**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

**SUBJECT: MANUAL OF INVESTIGATIVE
OPERATIONS AND GUIDELINES (MIOG)**

Volume: 2 PART 2



FEDERAL BUREAU OF INVESTIGATION

**THE BEST COPY
OBTAINABLE IS
INCLUDED IN THE
REPRODUCTION OF
THESE DOCUMENTS.
PAGES INCLUDED THAT
ARE BLURRED, LIGHT, OR
OTHERWISE DIFFICULT
TO READ ARE THE
RESULT OF THE
CONDITION OF THE
ORIGINAL DOCUMENT.
NO BETTER COPY CAN BE
REPRODUCED.**



VOLUME II

PART II

*Manual of
Investigative
Operations
and Guidelines*

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 1

SECTION 175. PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION,
KIDNAPING AND ASSAULT (PPSAKA)

175-1 BACKGROUND

(1) The original Presidential Assassination, Kidnaping and Assault Statute, Title 18, USC, Section 1751, was enacted into law on 8/28/65.

(2) This statute provides protection to the President, President-elect, Vice President, Vice President-elect, the officer next in the order of succession to the Office of President if there is no Vice President, or any individual who is acting as President under the Constitution and laws of the United States.

(3) On 10/6/82, Sections 351 and 1751 of Title 18 of the U.S. Code were amended to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members. (See Part I, Section 89 of this manual for details regarding crimes against Cabinet officers and Supreme Court Justices.) Section 1751, as amended, makes it a Federal offense to assassinate, kidnap, assault, attempt to kill or kidnap, or conspire to kill or kidnap certain Presidential and Vice Presidential staff members. The Presidential Assassination, Kidnaping and Assault Statute is entitled the "Presidential and Presidential Staff Assassination, Kidnaping and Assault Statute."

(4) Section 1751 provides a penalty for simple assault against a protected staff member of one year's confinement and/or a \$5,000 fine. (The penalty for such offenses against the President and others previously covered was not changed and remains ten years' confinement and/or a \$10,000 fine.) If bodily injury results from an assault against a protected staff member, the maximum penalty is ten years' confinement and/or a \$10,000 fine.

(5) Section 1751 was also amended to provide that the Government need not prove the subject knew the victim was protected under this statute and for extraterritorial jurisdiction.

(6) On 10/12/84, Title 18, USC, Section 115, was enacted which makes it a Federal crime to influence, impede, or retaliate against certain Federal officials by threatening or injuring a family member. Family members of the President, President-elect, Vice

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 2

President and Vice President-elect are covered by Section 115. (See MIOG, Part I, Section 89-5, "Crimes Against Family Members of Federal Officials....")

EFFECTIVE: 12/19/86

175-2 STATUTE AND PENALTIES

(1) Set forth below in its entirety is the Presidential and Presidential Staff Assassination, Kidnaping and Assault Statute, Title 18, USC, Section 1751:

"(a) Whoever kills (1) any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States, or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President, shall be punished as provided by sections 1111 and 1112 of this title.

"(b) Whoever kidnaps an individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a)(1) shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. Whoever assaults any person designated in subsection (a)(2) shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and if personal injury results, shall

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 3

be fined not more than \$10,000, or imprisoned not more than ten years, or both.

"(f) The terms 'President-elect' and 'Vice President-elect' as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

"(g) The Attorney General of the United States, in his discretion is authorized to pay an amount not to exceed \$100 000 for information and services concerning a violation of subsection (a)(1). Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this subsection.

"(h) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

"(i) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

"(j) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(k) There is extraterritorial jurisdiction over the conduct prohibited by this section."

(2) Section 1751(a) provides for punishment as provided by Sections 1111 and 1112. Title 18, USC, Section 1111, is the Murder Statute and Title 18, USC, Section 1112, is the Manslaughter Statute. See Part I, 89-2.2 of this manual for their text, definitions, and penalties.

(3) Title 18, USC, Section 115 (See MIOG, Part I, Section 89-5), makes it a Federal crime to assault, kidnap, or murder or to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 4

attempt to kidnap or murder, or to threaten to assault, kidnap or murder a member of the immediate family of the President, President-elect, Vice President, Vice President-elect and other designated Federal Officials.

EFFECTIVE: 12/19/86

175-3 ELEMENTS

(1) The elements of the PPSAKA Statute are basic in nature and are as follows:

(a) That the defendant(s) killed or kidnaped any individual(s) designated in Section 1751(a).

(b) That the defendant(s) attempted to kill or kidnap any individual(s) designated in Section 1751(a).

(c) That two or more individuals conspired to kill or kidnap any individual(s) designated in Section 1751(a) and one or more of them performed an act to effect the object of the conspiracy.

(d) That the defendant(s) assaulted any person(s) designated in Section 1751(a).

(2) It should be noted that Section 1751(j) does not require that the subject(s) knew the victim(s) was an individual(s) protected under this statute.

(3) The PPSAKA Statute does not require that the criminal act occur while the protected individual is engaged in or on account of the performance of his/her official duties.

(4) In regard to element (b) above, the Department of Justice (DOJ) has ruled that when an individual acting alone threatens to kill or kidnap a protected individual(s) and commits a sufficient overt act to carry out the threat, such as purchasing a weapon, such actions constitute an attempt to kill or kidnap within the meaning of the PPSAKA Statute.

(5) In regard to element (c) above, the DOJ has ruled that the FBI has the authority to investigate a creditable allegation of a conspiracy to kill or kidnap a protected individual even though the allegation does not include any information regarding an overt

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 5

| act in furtherance of the conspiracy. |

EFFECTIVE: 01/09/84

| 175-4 COMMENTS AND CLARIFICATION REGARDING THE PRESIDENTIAL AND
PRESIDENTIAL STAFF ASSASSINATION, KIDNAPING AND ASSAULT
STATUTE

(1) It should be noted that while statute covers assassinating, kidnaping, assaulting, attempts to kill or kidnap and conspiracies to kill or kidnap, it does not include mere threats made against those individuals protected under Section 1751(a). See 175-3 and 175-9 (regarding what action on the part of the subject constitutes an attempt to kill or kidnap as opposed to a mere threat) and see 175-9 regarding FBI authority to investigate a conspiracy allegation without evidence of an overt act.

(2) The term "kidnap" as used in this statute means "carrying away" the victim(s) and interstate transportation is not required. Investigation can be instituted immediately since the "24-hour presumption rule" utilized in the Federal Kidnaping Statute does not apply under Section 1751(b).

(3) Section 1751(e) distinguishes assaults against Presidential and Vice Presidential staff members as opposed to those individuals previously covered (President, President-elect, Vice President, Vice President-elect, etc.) by providing for a lesser penalty for staff members who are assaulted but not personally injured. Section 1751(e) makes no provisions for an aggravated assault in which a deadly or dangerous weapon is utilized. In such situations consideration should be given to prosecution under Section 1751(c), an attempt to kill, which has a severe penalty when a deadly or dangerous weapon is involved in an assault against a staff member and no injury to the victim results. This prosecutive possibility also applies in assault cases against both staff members and individuals previously protected when a deadly or dangerous weapon is utilized and injury to the victim occurs.

(4) In regard to personal injury, under Section 1751(e) the personal injury suffered must occur to an individual listed in this statute and not an independent third party in order to apply.

(5) Section 1751(e) does not define the term assault. See Part I, 89-2.3 of this manual entitled "Elements" for the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 6

definition of assault under the Assaulting a Federal Officer Statute. This definition is also utilized under the PPSAKA Statute.

(6) The conspiracy provisions of Section 1751(d) are limited to two objectives, killing and kidnaping, and do not include the objective of assault. Section 1751(d) does not preclude prosecution under the Federal Conspiracy Statute, Title 18, USC, Section 371; however, it provides a penalty of confinement for any term of years or for life. In a conspiracy situation involving an assault objective, prosecution must be under Section 371, with Section 1751(e) as the underlying charge.

(7) If Federal investigative or prosecutive jurisdiction is asserted, Section 1751(h) suspends local jurisdiction for the same offense until Federal action is terminated. However, it does not prevent local authorities from cooperating with the Bureau during an FBI investigation. Conflicts of jurisdiction resulting from the commission of an independent local offense, such as assaulting a state official(a) incidental to a PPSAKA violation, are to be resolved on a case-by-case basis.

(8) The death penalty provisions of Sections 1751(b)(2) and 1751(d)(2) are invalid based on a 1972 Supreme Court decision, Furman v. Georgia, which requires strict statutory standards for the death penalty application.

(9) The reward provisions of Section 1751(g) authorize the Attorney General to pay an amount not exceeding \$100,000 for information and services concerning a violation of Section 1751(a)(1). This contrasts favorably with the General Rewards Statute, Title 18, USC, Section 3059, which limits the amount payable to \$25,000 in other matters. The reward provisions of Section 1751(g) apply only to offenses committed against individuals described in Section 1751(a)(1), and do not apply to Presidential and Vice Presidential staff members. Authorized rewards under Section 1751(g) can be paid immediately and during the investigative stages of the case. Any request for consideration or payment of a reward should be referred to FBIHQ immediately by teletype setting forth complete details.

(10) Section 1751(i) vests investigative jurisdiction over PPSAKA violations with the FBI and permits the FBI to request assistance from military authorities as an exception to the Posse Comitatus Statute. See Part I, 89-3.4(5) of this manual entitled "Posse Comitatus" for additional information.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 7

(11) Section 1751(k) provides for extraterritorial jurisdiction in PPSAKA violations. See Part I, 89-3.4(6) of this manual entitled "Extraterritorial Jurisdiction" for additional information and DOJ policy.

EFFECTIVE: 01/09/84

175-5 STAFF MEMBERS COVERED UNDER THE PRESIDENTIAL AND
PRESIDENTIAL STAFF ASSASSINATION, KIDNAPING AND ASSAULT
STATUTE

(1) As noted in 175-1, Title 18, USC, Section 1751, was amended on 10/6/82, to include assassinating, kidnaping, assaulting, attempting to kill or kidnap and conspiring to kill or kidnap certain Presidential and Vice Presidential staff members.

(2) This amendment resulted in extending protection to an additional 30 individuals: the 25 staff members who can be employed in the Executive Office of the President by appointment by the President under Title 3, USC, Section 105(a)(2)(A), and the 5 staff members who can be employed in the Office of the Vice President by appointment by the Vice President under Title 3, USC, Section 106(a)(1)(A).

(3) A review of the above Title 3 sections discloses that the 30 staff members are not identified by job title or description. Title 3, USC, Section 105(a)(2)(A), pertaining to Presidential staff members, states, in essence, 25 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of Section 5313 of Title 5. Title 3, USC, Section 106(a)(1)(A), pertaining to Vice Presidential staff members, states, in essence, 5 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of Section 5313 of Title 5. Based on the above sections, FBI jurisdiction under Title 18, USC, Section 1751, will extend to the above 30 Presidential and Vice Presidential staff members who are salaried at level II of the Executive Schedule.

(4) It should be noted that new protected Staff members may be appointed during a given administration, and some may resign or be replaced. These individuals have titles such as Counselor to the President, Chief of Staff, Assistant to the President (for a particular expertise) and certain deputies of these officials. It is not practical to identify these protected individuals by name or title

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 8

as the list may change periodically in accord with personnel actions of the President or Vice President. Furthermore, during a change of administration, the number of protected staff members may increase or decrease and their job titles may differ from the previous administration.

(5) If a question should arise as to whether or not a particular staff member is covered under the PPSAKA Statute, telephonically contact the Violent Crimes Unit, Criminal Investigative Division, FBIHQ, for assistance.

EFFECTIVE: 02/16/89

175-6 PRESIDENT-ELECT AND VICE PRESIDENT-ELECT

(1) When a nonincumbent Presidential candidate and his/her Vice Presidential candidate win the general election and become the President-elect and the Vice President-elect, they are protected from threats under the United States Secret Service's (USSS) Threats Against President and Successors to the Presidency (TAPSP) Statute, Title 18, USC, Section 871, and from violations under the FBI's PPSAKA Statute, Title 18, USC, Section 1751.

(2) It should be noted that certain threats under the TAPSP Statute will also constitute a PPSAKA violation. See 175-9 for complete details.

(3) All violations of the PPSAKA Statute involving captioned individuals should be investigated by the FBI.

EFFECTIVE: 06/18/87

175-7 VICE PRESIDENT DESIGNATE

(1) By letter dated 9/11/74, the Assistant Attorney General, Criminal Division, DOJ, advised FBIHQ as follows:

(2) Although there is not an express statute relating to threats upon a Vice President designate, the USSS has, in the discharge of its protective responsibilities, a basis for investigating such threats to the same extent that they would investigate a threat within the purview of Title 18, USC, Section 871.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 9

(3) Similarly, although a Vice President designate is not listed under the PPSAKA Statute, any such violation directed against him/her should be investigated by the FBI as though he/she were, in fact, a Vice President.

EFFECTIVE: 06/18/87

175-8 PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES (See MIOG,
Part I, 89-3.19 (2) (d).)

(1) Under Public Law 90-331 enacted 6/6/68, and entitled "Personal Protection of Major Presidential or Vice Presidential Candidates and Spouses," the USSS is authorized to furnish protection to persons who are determined by the Secretary of the Treasury, after consultation with the Congressional Advisory Committee, to be major Presidential or Vice Presidential candidates who should receive such protection (unless declined).

(2) USSS protective responsibilities in this area and its investigative jurisdiction involving threats apply only to major candidates.

(3) The PPSAKA Statute does not apply to Presidential and Vice Presidential candidates, and FBI investigative jurisdiction, if present, must be developed from the following statutes under the Bureau's jurisdiction:

(a) The Federal Extortion Statute, Title 18, USC, Sections 875 and 876, if a threat is conveyed by interstate telephone call or the U.S. mail. See Part I, Section 9 of this manual entitled "Extortion" for complete details.

(b) On 11/10/86, the "Criminal Law and Procedure Technical Amendments Act of 1986" extended to major Presidential and Vice Presidential candidates the protection of Title 18, USC, Section 351, the Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault (CCSCAKA) Statute. See Part I, 89-3 of this manual for complete details.

(c) Civil Rights/Election Laws, Title 18, USC, Section 245(b)(1)(A). This statute entitled "Federally Protected Activities" applies to all candidates and prohibits injury,

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 10

intimidation, interference, or attempts to do so by force or threat of force against any person because of his/her activities as a candidate for elective office.

1. In accordance with this manual, if the threat/assault is perceived as racially motivated, the matter should be handled under the 44 classification with a preliminary investigation conducted prior to presentation to the USA for a prosecutive opinion. See Part I, Section 44-1.5 of this manual for complete details.

2. If the threat/assault is nonracially motivated, the matter should be handled under the 56 classification and the USA notified of the offense as soon after its occurrence as possible. See Part I, Section 56 of this manual entitled "Election Laws" for complete details.

(3) The foregoing is not a complete list of all violations which may be applicable, but should provide an adequate basis for possible FBI jurisdiction in most cases involving threats/assaults against Presidential and Vice Presidential candidates. If a questionable situation arises which does not fall within the purview of the above statutes, promptly contact the appropriate Assistant USA (AUSA) for a legal opinion.

(4) Because of the USSS's protective responsibilities in this and related areas, it must be promptly notified at both local and headquarters levels. See 175-14 for the methods of notification and dissemination to be followed.

(5) Any violation within the Bureau's jurisdiction, regardless of classification, which involves a Presidential or Vice Presidential candidate should receive immediate investigative attention and be closely coordinated with the USSS.

EFFECTIVE: 01/31/94

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 11

175-9 FBI VERSUS UNITED STATES SECRET SERVICE JURISDICTION

(1) In order to clearly understand the FBI's investigative jurisdiction as compared to the USSS's protective duties and investigative jurisdiction in this area, it is necessary to review several pertinent statutes.

(2) In essence, prior to the passage of the Presidential Assassination, Kidnaping and Assault (PAKA) Statute on 8/28/65, the FBI did not have statutory investigative jurisdiction in this area; however, USSS had protective responsibilities under the Secret Service Powers (SSP) Statute, Title 18, USC, Section 3056, and investigative jurisdiction over certain types of threats under the TAPSP Statute, Title 18, USC, Section 871.

(3) Under the SSP Statute, the USSS is responsible for the protection of the President, the President-elect, the Vice President or other officer next in order of succession to the Office of President, the Vice President-elect, the members of their immediate families, former Presidents and their spouses during their lifetimes, widows or widowers of former Presidents until their death or remarriage, minor children of former Presidents until they reach 16 years of age, the visiting heads of foreign states or foreign governments and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad.

(4) Under the TAPSP Statute, the USSS has investigative jurisdiction over all threats to assault or kill the President, the President-elect, and the Vice President, or other officer next in the order of succession to the Office of the President. On 10/12/82, Public Law 97-297 amended Section 871 to include threats to kidnap the above individuals.

(5) The original PAKA Statute was enacted on 8/28/65, to make killing the President a Federal offense. Language in the statute gave investigative jurisdiction for such an offense to the FBI. The USSS retained protective duties under the SSP Statute and investigative jurisdiction over threats covered by the TAPSP Statute. Shortly afterward, it was noted that there appeared to be overlapping jurisdiction between the Bureau's PAKA Statute and the USSS's TAPSP Statute in the area of attempts and conspiracies to kill or kidnap designated individuals. DOJ was consulted for clarification, and by letter dated 1/4/66, the Attorney General advised that FBI jurisdiction under the PAKA Statute is as follows:

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 12

- (a) Actual assassinations, kidnaping or assaults.
- (b) Conspiracies to kill or kidnap when two or more persons involved are in agreement as well as the presence of some overt act toward the execution of said conspiracy.
- (c) Actual attempts to kill or kidnap, even on the part of an individual acting alone, should there be any activity indicating an effort to consummate the attempt.
- (d) Attempted assaults whenever there is clear-cut physical action on the part of an individual sufficient to cause apprehension of personal injury to the victim(s).
- (e) Oral threats or threats not coming within the above definition of attempted assault would continue to be investigated by the USSS under its TAPSP Statute.
- (6) As a consequence of the above Attorney General guidelines, the FBI was given investigative jurisdiction over attempts and conspiracies to kill or kidnap designated individuals, as set forth in 5(b) and 5(c) above, which were formerly investigated by the USSS as threats under its TAPSP Statute. When formulating the above guidelines, the Attorney General held that when an individual is acting alone, activity such as obtaining the instruments, means or other necessities to kill or kidnap an individual(s) protected by the PAKA Statute can constitute a violation. For example, if a subject in California threatens to kill or kidnap a protected individual(s) located in Washington, D.C., and purchases a gun in California or elsewhere in an effort to consummate the attempt, he/she has committed a violation of Section 1751(c). Investigation of the offense is within the FBI's jurisdiction.
- (7) On 3/18/66, representatives of the USSS and the Department of the Treasury met with the DOJ in regard to the above guidelines and advised that, in their opinion, the Attorney General's definition of an attempt to kill or kidnap was too broad and could conceivably give rise to jurisdictional difficulties between the FBI and the USSS. The DOJ took the position that its guidelines in regard to FBI jurisdiction under Section 1751 were correct and would remain in effect without change.
- (8) Based on the above DOJ guidelines, the then entitled "Agreement Between the FBI/USSS Concerning Presidential Protection," entered into on 2/3/65, was revised on 7/27/66, to incorporate the

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 13

FBI's jurisdiction under the PAKA Statute as defined by the DOJ.

(9) In regard to a conspiracy to kill or kidnap a designated individual(s), by letter dated 3/3/78, the Assistant Attorney General, Criminal Division, DOJ, advised FBIHQ that the FBI has the authority to investigate a credible allegation of a conspiracy to kill or kidnap a protected individual(s) even though the allegation does not include any information regarding an overt act in furtherance of said conspiracy. The DOJ held that the overt act is merely an element of the offense which investigation must establish before prosecution is possible. Therefore, the FBI has jurisdiction to investigate such an allegation in an effort to develop an overt act and establish a violation of Title 18, USC, Section 1751(d).

(10) On 10/6/82, the PAKA Statute was amended to include protection to certain Presidential and Vice Presidential staff members and was retitled as the PPSAKA Statute.

(11) It should be noted that while USSS had protective responsibilities for numerous individuals set forth in the SSP Statute prior to 10/12/82, Federal prosecution was limited only to those cases involving protectees listed in the TAPSP Statute. As a consequence, USSS had to rely on local prosecution to deal with individuals who threatened USSS protectees under Section 3056 that were not covered under Section 871.

(12) In order to correct this situation, a statute, Title 18, USC, Section 879, entitled "Threats Against Former Presidents and Certain Other Persons Protected by the Secret Service," was enacted into law on 10/12/82, under Public Law 97-297. The SSP Statute was also amended to include USSS investigative jurisdiction over Title 18, USC, Section 879.

(13) Section 879, in essence, makes it a Federal crime with a penalty of not more than three years' imprisonment and/or not more than \$1,000 fine to threaten to kill, kidnap, or injure a former President(s) or a member(s) of his/her immediate family; a member(s) of the immediate family of the President, the President-elect, the Vice President or Vice President-elect; or a major candidate for the Office of President or Vice President, or the spouse of such candidate who is protected by the USSS as provided by law.

(14) Section 871 (as amended 10/12/82) does not affect FBI jurisdiction since a threat violation, if it does not constitute a violation of the PPSAKA Statute, has historically come under the USSS's investigative jurisdiction. Furthermore, Section 879 (see (12)

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 14

above) provides USSS with a means to secure Federal prosecution in lieu of local prosecution for certain threats made against those individuals who were USSS protectees and not listed under Section 871. It should also be noted that the individuals protected under Section 879 are not protected under Section 1751.

(15) Prior to 10/6/82, all individuals listed under Section 1751 were also USSS protectees under Section 3056 and protected from threats under Section 871. The 10/6/82 amendment to Section 1751 pertaining to Presidential and Vice Presidential staff members (see (10) above) has created a void regarding USSS statutory protection and prosecution. In essence, Presidential and Vice Presidential staff members are not protected under the USSS's SSP Statute and not listed under its prosecutable statutes, Sections 871 and 879. The FBI has investigative jurisdiction involving violations of Section 1751 pertaining to Presidential and Vice Presidential staff members. In regard to threats made against these individuals that do not constitute a PPSAKA violation, see 175-11.

(16) It must be noted that the FBI's jurisdiction over a PPSAKA violation does not supersede the USSS's protective responsibilities in this area. The USSS will continue to exercise its protective functions over the victim(s) or intended victim(s). However, it must be clearly established with the USSS that investigative jurisdiction lies with the FBI and USSS protective functions should not take the form of an investigation which would infringe upon the FBI's jurisdiction.

EFFECTIVE: 07/18/86

175-10 PROVISIONS OF THE "AGREEMENT BETWEEN THE FBI AND THE UNITED STATES SECRET SERVICE CONCERNING PROTECTIVE RESPONSIBILITIES" DEALING WITH JURISDICTION

In addition to setting forth the respective FBI dissemination and USSS protective functions in this area, Section III of the above agreement sets forth the following FBI/USSS jurisdictional responsibilities.

(1) "The USSS agrees that it will conduct no investigation of individuals or groups identified or suspected of being threats to the internal security of the United States without notifying the FBI. However, when time for consultation is not available, and an indication of immediate danger exists, the USSS may

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 15

take such action as is necessary with respect to carrying out its protective responsibilities. Any information obtained by the USSS during such action will be furnished to the FBI as expeditiously as possible."

(2) "It will be the responsibility of the USSS to furnish the FBI any information in its possession or which may come to its attention which reasonably indicates that a violation of Title 18, U.S. Code, Section 1751, has been or is being committed."

(3) "This USSS also agrees to furnish the FBI any information in its possession or which may come to its attention indicating a violation of any other statutes over which the FBI has investigative jurisdiction."

(4) "The FBI will not conduct investigations of individuals or groups solely for the purpose of establishing whether they constitute a threat to the safety of the President and certain other persons unless there is an indication of a violation of Title 18, U.S. Code, Section 1751, or other statute over which the FBI has jurisdiction."

(5) "It will be the responsibility of the FBI to advise the USSS when investigation is being initiated under Title 18, U.S. Code, section 1751, and thereafter to furnish the USSS with copies of the FBI investigative reports as they are prepared."

(6) "The FBI, under its responsibility for investigation of violations of Title 18, U.S. Code, Sections 112, 970, 1116, 1117, 1201 and 1751, will take cognizance of the protective responsibilities of the Department of the Treasury under Title 3, U.S. Code, Section 202, and Title 18, U.S. Code, Section 3056, and thus will not limit or interfere with the authority of the Secretary of the Treasury in the discharge of his/her statutory protective responsibilities. This is not to be construed as vesting concurrent investigative jurisdiction with the Department of the Treasury with respect to investigations of individuals or organizations engaged in activities affecting the national security, including terrorism, treason, sabotage, espionage, counter espionage, rebellion or insurrection, sedition, seditious conspiracy, neutrality matters, the Foreign Agents Registration Act, or any other statute or Executive order relating to national security. Any investigations of such groups or individuals for any reason other than in connection with protective responsibilities must be closely coordinated with and have the concurrence of the FBI in order to minimize interference with the national security responsibilities of the FBI."

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 16

EFFECTIVE: 01/09/84

175-11 INVESTIGATIVE POLICY REGARDING THREATS NOT CONSTITUTING A
PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION,
KIDNAPING AND ASSAULT VIOLATION (See MIOG, Part I, 175-9
(15).)

(1) Cases involving mere threats not constituting a PPSAKA violation made against those individuals listed under Section 1751(a)(1) (President, President-elect, Vice President, Vice President-elect etc.) should be immediately referred to the nearest office of the USSS for investigation by its agents. This policy is based on the fact that the FBI in these instances does not have jurisdiction under the PPSAKA Statute and USSS has protection responsibilities for such individuals under Title 18, USC, Section 3056, and investigative jurisdiction under Title 18, USC, Section 871.

(2) Cases involving mere threats against the above individuals listed under Section 1751(a)(1), coupled with a Federal violation under the FBI's jurisdiction other than a PPSAKA violation growing out of the above threats, such as a violation of the Federal Extortion Statute, should also be immediately referred to the nearest office of the USSS for investigation by that agency. This policy is based on the USSS's protective responsibilities for these individuals under Section 3056 and investigative jurisdiction under Section 871 which are considered to be paramount and override the FBI's jurisdiction under the Federal Extortion Statute. In addition, this policy will ensure that the FBI and USSS do not duplicate investigative efforts. Upon referral to USSS locally, that agency should be requested to advise the FBI when its investigation is completed and the case is entering the prosecutive state in order to ensure that the violation under the FBI's jurisdiction may be presented by the FBI to the appropriate USA to determine if he/she desires to prosecute the FBI offense in addition to the USSS violation. If the USSS desires the FBI's joint investigative assistance in cases meeting this criteria, such requests should be made by USSS Headquarters to FBIHQ.

(3) Information received under categories (1) and (2) above should be promptly forwarded to FBIHQ by teletype suitable for dissemination to USSS Headquarters. The teletype should set forth the proper case title and character, the complete fact situation, the identity of the USSS employee notified, the time and date of

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 17

notification, and the identity of the FBI employee who made the dissemination. Since investigative jurisdiction lies wholly or primarily with USSS in the above instances, the USSS should be advised locally that based on the presently known existing facts, no further investigation will be conducted by the FBI unless requested by USSS Headquarters, as set forth in (2) above.

(4) If the above-referred threat cases develop into an actual violation of the PPSAKA Statute, investigative jurisdiction transfers from the USSS to the FBI based on Section 1751(i). This Section specifically vests jurisdiction with the FBI. The provisions of the "Agreement Between the FBI and the USSS Concerning Protective Responsibilities" require the USSS to report such violations to the FBI. See 175-10(3) for complete details.

(5) Investigative policy in cases involving mere threats not constituting a PPSAKA violation made against those individuals listed under Section 1751(a)(2) (Presidential and Vice Presidential staff members) will differ from the above cases for the following reasons:

(a) Since staff members are not USSS protectees under Title 18, USC, Section 3056, and are not protected from threats made against them under the USSS prosecutive statutes, Title 18, USC, Sections 871 and 879, an FBI referral to the USSS for investigative handling would be without a statutory basis. These threats must be analyzed to determine if they constitute another Federal or local violation upon which FBI investigative or referral action can be taken. However, since staff members are so closely associated with USSS protectees, any information developed concerning threats against staff members and all subsequent FBI investigative developments should be promptly disseminated to the USSS on a local and headquarters level to assist it in its protective responsibilities.

(b) While mere threats do not constitute an actual assault violation under the PPSAKA Statute, a threat of force uttered with the apparent present ability to execute it (such as the subject displaying a weapon or making a threatening gesture which places the staff member in fear of bodily harm) legally constitutes an assault and a violation of Section 1751(e).

(c) If threats involve or possibly involve a threat to kill or kidnap a staff member, an investigation should be immediately instituted to determine if a conspiracy coupled with an overt act exists which would constitute a violation of Section 1751(d).

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 18

(d) If threats by an individual acting alone involve or possibly involve a threat to kill or kidnap, an investigation should be immediately instituted to determine if the individual has committed a sufficient overt act in furtherance of the threat, such as purchasing a gun, which would constitute an attempt to kill or kidnap under Section 1751(c).

(e) If the appropriate threats are conveyed by the U.S. mail or by an interstate telephone call, an investigation should be immediately instituted under the corresponding Federal Extortion Statute. See Part I, Section 9 of this manual entitled "Extortion" for complete details.

(f) If the investigation involving (b) and (d) above determines the subject was acting alone, Title 18, USC, Section 245(b)(1), entitled "Federally Protected Activities" should be considered as a basis for a Federal violation and FBI jurisdiction. See Part I, Section 44-1.5 of this manual for complete details.

(g) If the threats are made by telephone and do not meet the criteria of the Federal Extortion Statute, Title 18, USC, Section 875, they may constitute a violation of the Interstate Obscene or Harassing Telephone Calls Statute, Title 47, USC, Section 223. See Part I, Section 178 of this manual entitled "Interstate Obscene or Harassing Telephone Calls" for complete details.

(6) If the office of origin (OO) is in doubt whether captioned threats constitute a Federal violation under the FBI's jurisdiction, the fact situation should be promptly presented to an appropriate AUSA for a legal opinion and whether an investigation or "preliminary inquiry" should be conducted.

(7) In the absence of FBI jurisdiction, if it is determined that a Federal violation under the investigative jurisdiction of another Federal agency exists, the case should be promptly referred to that agency.

(8) In the absence of a Federal violation, information received regarding threats should be promptly referred to local authorities.

(9) Details regarding presentation to an AUSA for a legal opinion or referral to another Federal agency or local authorities for their handling should be set forth in the notification teletype to FBIHQ.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 19

(10) The office receiving information regarding these types of threats must promptly notify the intended victim of the threat, if he/she is located within its territory, or request the appropriate office to make the notification. The intended victim(s) should also be advised of what investigative or referral action is being taken regarding the threat. The fact that dissemination was made or not requested should be set forth in the notification teletype to FBIHQ.

EFFECTIVE: 01/31/94

175-12 INVESTIGATIVE PROCEDURES

(1) Upon receipt of information indicating a violation of the PPSAKA Statute, investigation should be immediately initiated utilizing sufficient personnel to promptly address and resolve the situation.

(2) In those instances where there is a question whether the FBI has investigative jurisdiction, it should be resolved in favor of initiating an immediate investigation. As soon as sufficient facts are developed, consult with the USA's Office in order to determine if the facts constitute a PPSAKA violation.

(3) The nearest office of the USSS should be advised promptly by telephone of the facts and informed that the FBI is assuming investigative jurisdiction. Notification should also be made to any other local, state, or Federal agency having a legitimate interest.

(4) Depending on the urgency of the situation, leads for auxiliary offices should be set forth telephonically or by teletype. Telephonic leads must be promptly confirmed by teletype.

(5) Offices receiving leads must promptly conduct the required investigation and furnish the results to FBIHQ by teletype.

(6) The OO must promptly advise the USA's Office of the facts and ensure that Federal process is obtained as soon as possible for the subject's arrest.

(7) In regard to the requirements of USSS notification

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 20

and dissemination, see 175-14 for complete details.

(8) In regard to the requirements of FBIHQ notification, see 175-13 for complete details.

EFFECTIVE: 01/09/84

175-13 NOTIFICATION TO FBIHQ IN PRESIDENTIAL AND PRESIDENTIAL
STAFF ASSASSINATION, KIDNAPING AND ASSAULT CASES

(1) In PPSAKA cases, depending on the urgency of the situation, FBIHQ shall be promptly notified of the complete details by telephone and/or teletype. Telephone notification to FBIHQ must be promptly confirmed by teletype.

(2) FBIHQ should also be advised of all subsequent major investigative developments by summary teletype.

(3) Furnish FBIHQ copies of all subsequent communications prepared by the OO and auxiliary offices.

(4) The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

EFFECTIVE: 01/09/84

175-14 DISSEMINATION TO UNITED STATES SECRET SERVICE (See MIOG,
Part I, 89-5.5(4), 175-8(4), 175-12(7), 175-14.1(1),
175-15(3) & MAOP, Part II, Section 9.)

(1) FBI PPSAKA Violations and USSS Threat Violations:

(a) Information developed concerning any FBI PPSAKA violation or USSS threat violation must be promptly disseminated to the USSS on a local and headquarters level.

(b) Dissemination on the local level should be made telephonically to the nearest office of the USSS by the office receiving the information.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173

(c) The notification teletype to FBIHQ should set forth the proper case title and character, the complete fact situation, the identity of the USSS employee notified, the time and date of notification, and the identity of the FBI employee who made the dissemination.

(d) Based on guidelines set forth in 175-9, USSS must be locally advised whether or not investigation is being instituted by the FBI. This fact should be clearly set forth in the notification teletype to FBIHQ.

(e) When the threat is in the form of a written communication in the possession of the FBI and investigative jurisdiction lies with the USSS, the original should be furnished to the nearest local USSS office. The above disposition should be reported in the notification teletype to FBIHQ with a lead to furnish FBIHQ two copies of the document by cover airtel. Designate one copy for FBI Laboratory examination and comparison purposes and the other for dissemination to USSS Headquarters.

(f) If investigative jurisdiction lies with the FBI, a copy of the threatening communication should be disseminated to USSS locally for information purposes. This dissemination should be reported in the notification teletype to FBIHQ with a follow-up lead to submit the original document by cover airtel to FBIHQ for examination by the FBI Laboratory Division and one copy for dissemination to USSS Headquarters, Washington, D.C.

2) FBI/USSS Agreement Concerning Protective Responsibilities: (See MIOG, Part I, 89-2.19(3), 89-4.8(2), 89-5.4 & 175-10.)

(a) Refer to Part II, 18-6 entitled "Agreement Between the FBI and USSS Concerning Protective Responsibilities" wherein the formal agreement is set out in its entirety.

(b) In addition to the required dissemination to USSS in PPSAKA violations and USSS threat violations, the FBI, under the above agreement, has additional dissemination responsibilities to USSS concerning information falling within the following categories which pertain to their protection duties in general:

refer

[REDACTED]

Manual of Investigative Operations and Guidelines

[illegible]

Refer

Sensitive

Manual of Investigative Operations and Guidelines
Part 1

PAGE 174

[REDACTED]

[REDACTED]

*refer
USSS*

(3) USSS Protectees in a Travel Status: (See MIOG, Part 1, 89-2.19(3), 89-4.8(2) & 175-16(3)).

(a) The formal FBI/USSS agreement concerning protective responsibilities referred to in (2) above identifies the categories of information to be disseminated by the FBI to the USSS locally and on a headquarters level.

(b) In 1981, USSS requested FBIHQ to also furnish information concerning persons or groups whose current or past behavior, associations, or activities are indicative of a reasonable possibility that they might be a source of danger to USSS protectees, to other public officials, or to facilities visited by USSS protectees.

(c) Based on the above request, FBIHQ and USSS Headquarters agreed that the FBI should disseminate the following types of information to the USSS locally when a USSS protectee is in its territory:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*refer
USSS*

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 24

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*refer
USSS*

[REDACTED]

[REDACTED]

[REDACTED]

(d) The above agreement does not require the FBI to actively seek out this information, but if it is developed during the normal course of an investigation, it should be disseminated.

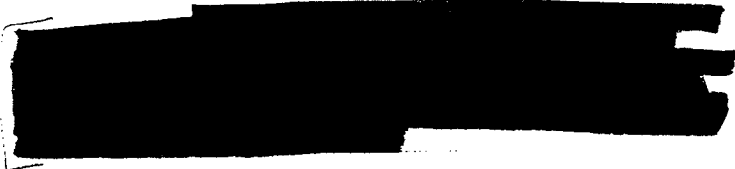
(e) USSS will notify the local FBI office when a

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 25

USSS protectee is to be present in its territory. USSS Headquarters will also advise FBIHQ of the travel plans of its protectees by teletype which will be relayed to the appropriate FBI office or offices with appropriate leads.



*refer
USSS*

(g) The SAC should ensure that all SAs are familiar with the required dissemination and, to the extent possible, the travel plans of the USSS protectee in order that they can immediately recognize the significance of any pertinent information that comes to their attention.

EFFECTIVE: 09/24/93

175-14.1 Methods of Dissemination to United States Secret Service
FBI PPSAKA Violations and USSS Threat Violations.

(1) As set forth in 175-14(1), prompt dissemination of information to USSS in these categories must be made on a local and headquarters level.

(2) Initial dissemination to USSS locally is to be made telephonically to the nearest office of the USSS by the office developing the information.

(3) The notification teletype to FBIHQ must include the proper case title and character, the complete fact situation, the identity of the USSS employee notified, the time and date of notification, and the identity of the FBI employee who made the dissemination.

(4) A copy of the above teletype should be provided to the local USSS office which will serve as confirmation of the previous telephonic notification. This method will eliminate preparing an FD-376 (Transmittal Letter to USSS) and LHM in this

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 26

instance since all pertinent information and notification details will be a matter of record in the teletype. See 175-15 for details regarding the utilization of the FD-376.

(5) If the above fact situation falls under USSS investigative jurisdiction and no further action will, therefore, be taken by the FBI, the above method of dissemination will complete the FBI's dissemination requirements.

(6) If the above fact situation falls under the FBI's investigative jurisdiction, the above method of dissemination will meet our initial dissemination requirements. In regard to further investigation conducted by the FBI, dissemination should be made to USSS locally and on a headquarters level in the following manner:

(a) If a report is prepared, a copy should be disseminated to USSS locally and an extra copy designated for FBIHQ for dissemination to USSS Headquarters.

(b) If a report is not prepared, one copy of a detailed LHM setting forth the results of the investigation should be designated for USSS locally by FD-376. The original FD-376 and two copies, along with the original LHM and two copies, should be transmitted to FBIHQ by cover airtel for dissemination to USSS Headquarters.

(c) Reports reflecting a prior investigation of a subject who is now of current interest to the USSS should not be disseminated to USSS. An LHM setting forth the pertinent facts of the investigation previously conducted should be prepared and disseminated locally and on a headquarters level.

EFFECTIVE: 01/09/84

175-14.2 Changes of Residence and/or Employment

(1) In those instances where dissemination was previously made to USSS concerning an individual and information regarding a change in his/her residence and/or employment subsequently comes to your attention, the new information should be promptly disseminated to USSS locally and on a headquarters level.

(2) Form FD-366, which is self-explanatory and specifically designed for this purpose, should be utilized for this

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 28

8/28/65, vested certain investigative jurisdiction with the FBI that was formerly handled by the USSS. On 7/27/66, the above agreement was revised to incorporate the FBI's jurisdiction. On 11/26/71, the agreement was revised to include the new USSS protective responsibilities involving visiting heads of state, certain additional types of information desired from the FBI, the authority to request the Director of the FBI for SAs to augment USSS protective duties; and it was retitled the "Agreement Between the FBI/USSS Concerning Protective Responsibilities." For further details regarding this agreement, see 175-14(2).

(2) "Agreement of Procedures." - On 12/11/78, this agreement was adopted to confirm the procedures to be followed by the USSS and FBI when a USSS protectee suffers a violation of Title 18, USC, Section 1751. See 175-17 for complete details.

(3) USSS Protectees in a Travel Status. - On 9/14/81, the FBI and USSS adopted this agreement concerning the dissemination of certain types of information to USSS by an FBI office when a USSS protectee travels within its territory. See 175-14(3) for complete details.

REFER [REDACTED]

(5) USSS NCIC Protective File. - This NCIC file, effective 4/27/83, was designed to assist the USSS in its protective functions by entering certain individuals that USSS considers may pose a threat to its protectees. See MAOP, Part II, 7-2.10.

EFFECTIVE: 08/18/94

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 29

175-17 FBI/UNITED STATES SECRET SERVICE "AGREEMENT OF PROCEDURES"
REGARDING VIOLATIONS INVOLVING UNITED STATES SECRET
SERVICE PROTECTEES THAT FALL WITHIN FBI JURISDICTION

On 12/11/78, the following "Agreement of Procedures" was adopted by the FBI and USSS:

"This agreement between the U.S. Secret Service and the Federal Bureau of Investigation is to confirm our procedures to be followed in the event that a violation of law occurs involving a person or persons protected by the U.S. Secret Service pursuant to law and which falls within the investigative jurisdiction of the FBI.

"I. In the event of the killing of a protectee of the U.S. Secret Service for which the FBI has investigative jurisdiction:

"A. The U.S. Secret Service during the immediate period thereafter will exercise control as an interim Federal presence until such time as the Director of the Secret Service and the Director of the FBI, or their designees, agree to an orderly transfer of responsibilities. In most instances, this should occur before or no later than the time of the autopsy. It is understood that concurrent with the transfer of responsibilities the Secret Service will release custody and control of the deceased protectee to the FBI, but may maintain a presence as deemed necessary by the Secret Service. During this period of time the FBI shall have presence in all situations to fully carry out their investigative responsibilities pursuant to law.

"B. During the immediate period following the killing of a protectee, the U.S. Secret Service will maintain and preserve any suspects, witnesses, and evidence under its control until such time as the FBI assumes its investigative responsibilities.

"C. The Secret Service and the FBI will coordinate all phases of the subsequent investigation or investigations into the killing of a protectee, and the Secret Service will have presence in all phases of the investigation, pursuant to the responsibilities of the Secret Service under law. This shall include mutual presence in a Command Post or Coordinating Center established by the FBI or Secret Service.

"II. In the event of any other violation of law involving a protectee of the Secret Service for which the FBI has investigative jurisdiction:

"A. The same procedures shall be followed concerning control and presence as outlined above. The Directors of the Secret Service and

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 30

the FBI, or their designees, shall agree to an orderly transfer of responsibilities.

"B. The Secret Service during the immediate period following the violation will maintain and preserve any suspects, witnesses, and evidence under its control until such time as the FBI assumes its investigative responsibilities.

"C. The FBI and the Secret Service will coordinate the subsequent investigation or investigations and the Secret Service will have presence in all phases of the investigations pursuant to its responsibilities under law.

"III. Internal Procedures

The FBI and the Secret Service will create internal directives to fully effect this agreement of procedures.

"In order to provide for an orderly and systematic investigation of the above described violations of law involving a Secret Service protectee where the FBI has investigative jurisdiction, the FBI and the Secret Service will construe the terms of this agreement liberally and will take such action as is necessary to insure a coordinated and complete Federal effort at every level.

"This agreement shall be reviewed annually by representatives of the FBI and the Secret Service, or at such other times as the FBI or the Secret Service may request, to insure that the agreement is both practical and productive. Revisions may be made with the mutual concurrence of the Directors of the FBI and the Secret Service.

BY /s/ William H. Webster
Director
Federal Bureau of Investigation

BY /s/ H.S. Knight
Director
U.S. Secret Service

DATE December 11, 1978

DATE December 8, 1978

EFFECTIVE: 02/19/85

Sensitive
PRINTED: 02/18/98

Manual of Investigative Operations and Guidelines
Part I[illegible]

refer
USS

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 32

[REDACTED]

[REDACTED]

*Refer
USSS*

EFFECTIVE: 10/16/90

175-19 FBI PRESENCE IN UNITED STATES SECRET SERVICE COMMAND POST
DURING UNITED STATES SECRET SERVICE PROTECTEE VISIT

(1) FBIHQ has conferred with USSS Headquarters in regard to having a Bureau Agent in a local USSS command post during the President's visit to a particular city. The purpose of the Bureau Agent's presence in the USSS command post was to have an FBI representative on hand for liaison and coordination in the event a violation of Title 18, USC, Section 1751, occurred. It was understood that an FBI presence would be entirely at the pleasure of the USSS and could apply to other protectee visits.

(2) USSS Headquarters advised that its Special Agents in Charge would consider and request an FBI presence if necessary. FBI field offices should continue to coordinate such arrangements with local USSS counterparts as individual matters may require.

(3) It should be noted, however, that Section (I)(C) of the "Agreement of Procedures" entered into by the FBI and USSS on 12/11/78 provides for mutual presence in any command post or coordinating center established by the FBI or USSS once an actual violation of Title 18, USC, Section 1751, occurs. See 175-17 for complete details.

EFFECTIVE: 01/09/84

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 33

175-20 UNITED STATES SECRET SERVICE REQUESTS FOR FBI PERSONNEL TO
PROTECT THE PRESIDENT

(1) Section V of the "Agreement Between the FBI and the USSS Concerning Protective Responsibilities" provides that the USSS may, in accordance with Title 18, USC, Section 3056, request that FBI Agents be detailed to the USSS in order to augment the capacity of the USSS to perform its protective duties.

(2) All such requests should be forwarded to the Director of the FBI by USSS Headquarters.

(3) The FBI Agents who are detailed to the USSS are under the direction and exclusive operational control of the Director of the USSS for the period of their assignment.

(4) The FBI Agents so detailed may perform an armed or other protective function.

EFFECTIVE: 01/09/84

175-21 AGREEMENT BETWEEN THE FBI AND THE ARMED FORCES INSTITUTE
OF PATHOLOGY (AFIP)

See Part I, 89-3.12, of this manual for complete details.

EFFECTIVE: 01/09/84

175-22 RESPONSIBILITY OF FBI PERSONNEL REGARDING JURISDICTION,
INVESTIGATION AND DISSEMINATION

(1) It is imperative that field and FBIHQ Agent and support personnel in a position to receive complaints be fully aware of the FBI's investigative jurisdiction under the PPSAKA Statute, Title 18, USC, Section 1751, as distinguished from the USSS's investigative jurisdiction under the TAPSP Statute, Title 18, USC, Section 871, and be cognizant of the FBI's dissemination responsibilities to the USSS in this area.

(2) Each SAC will be held personally responsible to ensure that complaints involving a violation of the PPSAKA Statute are afforded immediate investigative action utilizing sufficient

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 34

personnel to promptly address and resolve the situation.

(3) All field and FBIHQ Agent personnel must constantly be alert to any information of interest to the USSS in this area and ensure that appropriate action is taken to promptly disseminate such information to the USSS in accordance with existing policy and procedures. Resolve any doubt in favor of the most liberal dissemination policy as practical.

(4) SACs and FBIHQ division heads should regularly review captioned area for proper handling and remind Agent personnel of FBI policy and procedures at appropriate intervals.

EFFECTIVE: 01/09/84

175-22.1 Threats to Life - Dissemination of Information (See MAOP, Part II, 9-7; MIOG, Part I, 89-6, 166-4, and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

"III. Guidelines

"A. Warning to the Person.

"(1) Expeditious Warnings to Identifiable Persons.
Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

"(2) Manner, Means, and Documentation of Warning.

"a. The Agency may determine the means and manner of the warning, using the method most likely to provide direct notice to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 35

the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or Custodial Jurisdiction.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 36

"(1) **Expeditious Notification.** When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) **Means, Manner, and Documentation of Notification.** The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. **Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.**

"(1) **Expeditious Notification.** Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

"(2) **Threats to Occupied Structures or Conveyances.** When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) **Means, Manner, and Documentation of Notification.** The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) **Exceptions.**

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has investigative jurisdiction concerning a threat:

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 37

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

EFFECTIVE: 03/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 38

175-23 CHARACTER

(1) Since PPSAKA Statute protects four classes of executive branch officers and covers seven types of crimes committed against them, the possible characters involved are numerous.

(2) Section 1751(a) subdivides certain of the above executive branch officers into President-elect, Vice President-elect, the officer next in the order of succession to the Office of the President if there is no Vice President, and any person who is acting as President under the Constitution and laws of the United States. For FBI character and management purposes, the classes of individuals protected are grouped as follows regardless of their above-subdivided status:

- (a) President or Vice President
- (b) Presidential or Vice Presidential staff member

(3) The types of crimes prohibited are as follows:

- (a) Assassination
- (b) Kidnap
- (c) Attempt to Assassinate
- (d) Attempt to Kidnap
- (e) Conspiracy to Assassinate
- (f) Conspiracy to Kidnap
- (g) Assault

(4) In order to readily identify the character, class of protected officer, and type of prohibited crime involved, all violations within the 175 classification are designated as PPSAKA and are further identified, in parentheses, by class of victim and type of crime involved as in the following examples:

- (a) PPSAKA (Presidential-Assault)
- (b) PPSAKA (Vice Presidential-Assassination)
- (c) PPSAKA (Presidential Staff Member-Conspiracy to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 39

Kidnap)

(d) PPSAKA (Vice Presidential Staff
Member-Conspiracy to Assassinate)

(5) Based on the above examples, the proper character for any given PPSAKA fact situation can be logically determined and should be set forth accordingly.

EFFECTIVE: 01/09/84

175-23.1 Threats Against the President and Protection of the President (Character)

(1) Threats Against the President - The threats under the USSS's TAPSP Statute, Title 18, USC, Section 871, that do not constitute a PPSAKA violation should not be carried under the PPSAKA character or assigned a 175 substantive case file number. Such matters when referred to the USSS should utilize a character of "Threats Against the President" regardless of the identity of the USSS protectee involved and should be filed in a 175-0 control file. All communications disseminated to the USSS locally and transmitted to FBIHQ for dissemination to USSS Headquarters should set forth the above character in the title.

(2) Protection of the President - Information developed concerning USSS protective duties under its SSP Statute, Title 18, USC, Section 3056, and not constituting a PPSAKA violation or a threat under the TAPSP Statute should not be carried under the PPSAKA character or assigned a 175 substantive case file number. Such matters when disseminated to the USSS should utilize a character of "Protection of the President" regardless of the identity of the USSS protectee involved and be filed in a 175-0 control file. All communications disseminated to the USSS locally and transmitted to FBIHQ for dissemination to USSS Headquarters should set forth the above character in the title.

EFFECTIVE: 01/09/84

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 40

175-24 175 SUBCLASSIFICATIONS

See MAOP, Part II, 3-1.1, "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

175-25 CASE TITLE

(1) In addition to the subject's name and aliases, if known, or an unknown subject(s) designation and aliases, a PPSAKA case title should include the victim's full name, his/her job title, and the initial date of the violation.

(2) Example:

JOHN SMITH, aka John Smithe;
JAMES E. JONES, COUNSELOR TO THE
PRESIDENT - VICTIM
9/30/83
PPSAKA
(PRESIDENTIAL STAFF
MEMBER - ASSAULT)
OO: WMFO

(3) In regard to Threats Against the President and Protection of the President matters, the case titles should correspond to the following examples:

- (a) JOHN SMITH, aka John Smithe;
THREATS AGAINST THE PRESIDENT
- (b) PLANNED DEMONSTRATION BY THE BLACK
RATS MOTORCYCLE GANG DURING THE
PRESIDENT'S VISIT TO CLEVELAND,
OHIO, ON 9/30/83;
PROTECTION OF THE PRESIDENT
OO: CLEVELAND

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 175 - 41

EFFECTIVE: 10/16/90

175-26 VENUE

Venue will be in the judicial district where the violation occurred. Title 18, USC, Section 3236, provides that the crime of murder is committed at the place where the injury was inflicted, the poison administered, or other means employed which caused the death of the victim, without regard to the place where the death occurred. For offenses committed outside the jurisdiction of any particular state or district, see Title 18, USC, Section 3238, entitled "Offenses not Committed in any District."

EFFECTIVE: 10/16/90

175-27 OFFICE OF ORIGIN

In PPSAKA violations, the OO shall be the office in whose territory the violation occurred. See 175-26 for the definition of the place where a murder occurs and in regard to offenses not committed in any district.

EFFECTIVE: 10/16/90

175-28 COPIES OF PROSECUTIVE REPORTS TO FBIHQ

Submit four copies to FBIHQ. Indicate one copy each to be disseminated to DOJ and USSS Headquarters.

EFFECTIVE: 10/16/90

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 176 - 1

SECTION 176. ANTIRIOT LAWS

176-1 STATUTES

Title 18, USC, Section 245 (b) (3), Chapter 102 (Sections 2101-2102) and Chapter 12 (Sections 231-233), effective 4/11/68.

EFFECTIVE: 01/31/78

176-1.1 Section 245 (b) (3)

EFFECTIVE: 01/31/78

176-1.1.1 Elements

- (1) During or incident to a riot or civil disorder
- (2) Use of force, or threat of force, to
- (3) Willfully injure, intimidate, or interfere with
- (4) Any person engaged in a business affecting interstate commerce
- (5) Or attempting to perform the above acts.

EFFECTIVE: 01/31/78

176-1.1.2 Other Provisions

Section 245 (a) (1) states the above provisions do not relieve state and local authorities of their responsibility for prosecuting under state and local laws; no Federal prosecution can be undertaken unless the Attorney General or the Deputy Attorney General certifies prosecution is in the public interest and is necessary to secure substantial justice.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 176 - 2

EFFECTIVE: 01/31/78

176-1.2 Chapter 102-Section 2101

EFFECTIVE: 01/31/78

176-1.2.1 Elements

- (1) Interstate or foreign travel or
- (2) Use of the mail, telegraph, telephone, radio, television, or any other facility of interstate or foreign commerce with intent to:
 - (a) Incite a riot; or
 - (b) Organize, promote, encourage, participate in, or carry on a riot; or
 - (c) Commit any act of violence in furtherance of a riot;
 - (d) Aid or abet any person in inciting or participating in a riot and
- (3) Either during the course of such travel or use of such facility or thereafter performs or attempts to perform any overt act to incite or participate in a riot.

EFFECTIVE: 01/31/78

176-1.2.2 Definitions of a Riot

Title 18, USC, Section 2102 defines a riot as a public disturbance involving an act of violence by one or more persons who are part of an assemblage of three or more persons. The requisite act of violence includes a threat coupled with the ability to immediately execute the threat provided that the threatened act would constitute a clear and present danger of property damage or personal injury.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 176 - 3

EFFECTIVE: 01/31/78

176-1.2.3 Other Provisions

(1) Local prosecution is a bar to any Federal prosecution based upon the same act or acts.

(2) State and local authorities are not relieved of their responsibility to prosecute violations of state and local statutes.

(3) When, in the opinion of the Attorney General, this chapter has been violated, prosecution shall proceed as speedily as possible or Congress shall be advised in writing of the reasons for not proceeding.

EFFECTIVE: 01/31/78

176-1.3 Chapter 12 - Section 231

EFFECTIVE: 01/31/78

176-1.3.1 Elements

(1) Teaching or demonstrating the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing personal injury or death, having reason to know or intending that the same will be unlawfully used in connection with a civil disorder which may in any way interfere with commerce or with any federally protected function; or

(2) Transporting or manufacturing for transportation in commerce any firearm or explosive or incendiary device, having reason to know or intending it will be used unlawfully in furtherance of a civil disorder; or

(3) Committing or attempting to commit any act to interfere with any firearm or law enforcement officer engaged in performance of his official duties in connection with and during a civil disorder which in any way interferes with commerce or with any federally protected function.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 176 - 4

EFFECTIVE: 01/31/78

176-1.3.2 Definitions of "Civil Disorder" and "Commerce."

(1) Title 18, USC, Section 232, defines a civil disorder as any public disturbance involving acts of violence by assemblages of three or more persons which causes immediate danger of or results in property damage or personal injury.

(2) Section 232 also states that commerce means interstate or foreign commerce or commerce wholly within the District of Columbia.

EFFECTIVE: 01/31/78

176-1.3.3 Other Provisions

(1) An act performed by a law enforcement officer in the lawful performance of his official duties is specifically excluded.

(2) Federal jurisdiction shall not operate to the exclusion of state or local jurisdiction.

EFFECTIVE: 01/31/78

176-2 POLICY

(1) Upon receipt of a complaint or information from any source not known to be unreliable, a preliminary investigation is to be instituted immediately, consisting of the following:

(a) Interviews of complainant and up to three available witnesses who are reported to have firsthand information bearing on the alleged violation. Obtain signed statements.

(b) Where a possible violation of state or local law is indicated, advise appropriate state or local authorities of the complaint and offer the cooperative facilities of the FBI, including the Laboratory Division, and coverage of out-of-state leads.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 176 - 5

Ascertain what action has been taken or is contemplated by those authorities; if they indicate an unwillingness or an inability to investigate and/or prosecute, obtain full details of reasons for their inaction.

(c) Discuss the matter with the USA to obtain his opinion as to what further Federal action, if any, is warranted; however, no further investigation is to be conducted without FBIHQ authority.

(d) Submit report (three copies) within five days of the receipt of the complaint.

(2) Advise FBIHQ immediately by teletype of receipt of all complaints and of the action being taken thereon. Also, submit teletype summary of results of preliminary investigation promptly upon completion.

(3) Copies of all communications prepared for dissemination should be furnished to the USA.

(4) Advise all persons interviewed the investigation is being conducted at the specific request of the U. S. Department of Justice.

EFFECTIVE: 09/24/93

176-3 MISCELLANEOUS

(1) Interstate commerce as referred to in Section 245 (b) (3) and Section 2101 does not include commerce wholly within the District of Columbia.

(2) The act of violence required to bring a public disturbance within the definition of a riot under Section 2101 need only be committed by one person who is part of an assemblage of three or more persons. However, violence necessary to bring a public disturbance within the definition of a civil disorder under Section 231 must consist of such act or acts by more than one person.

(3) Section 245 (b) (3) does not apply to acts or omissions on the part of law enforcement officers, National Guardsmen, or members of the U. S. Armed Forces engaged in suppressing a riot or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 176 - 6

civil disturbance or restoring law and order during a riot or civil disturbance. However, this does not preclude the possible presence of a violation of some other Federal statute (such as Title 18, USC, Section 242) or a state or local law.

EFFECTIVE: 01/31/78

|| 176-4 REPORTING REQUIREMENTS

In those cases when investigation is instituted, submit report (three copies) within five days and subsequent reports every 45 days thereafter.

EFFECTIVE: 11/08/78

|| 176-5 | PENALTIES

(1) Section 245 (b) (3) - \$1,000 fine and/or one year imprisonment; \$10,000 fine and/or ten years' imprisonment if personal injury results; imprisonment for any term of years or for life if death results.

(2) Section 2101 - \$10,000 fine and/or five years' imprisonment.

(3) Section 231 - \$10,000 fine and/or five years' imprisonment.

EFFECTIVE: 11/08/78

|| 176-6 | CHARACTER - ANTIRIOT LAWS

EFFECTIVE: 11/08/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 177 - 1

SECTION 177. DISCRIMINATION IN HOUSING

177-1 BACKGROUND

The Fair Housing provisions of Title VIII and Title IX of the Civil Rights Act of 1968 (amended in 1989) are designed to assure freedom from discrimination in the sale, rental, and financing of housing on the basis of race, color, religion, sex, handicap, familial status or national origin.

EFFECTIVE: 09/26/90

177-2 STATUTES

The Discrimination in Housing statutes covered under Section 177 of this manual are as follows:

- (1) Title 42, United States Code (USC), Section 3631, Criminal Interference - Violations, Bodily Injury; Death; Penalties.
- (2) Title 42, USC, Section 3617, Interference, Coercion or Intimidation; Enforcement by Civil Action.
- (3) Title 42, USC, Section 3604, Discrimination in the Sale or Rental of Housing.
- (4) Title 42, USC, Section 3605, Discrimination in Residential Real Estate-Related Transactions.
- (5) Title 42, USC, Section 3606, Discrimination in Provision of Brokerage Services.
- (6) Title 18, USC, Section 241, Conspiracy Against Rights.
- (7) Title 18, USC, Section 245, Federally Protected Activities.
- (8) Title 42, USC, Section 3607, Religious Organization or Private Club Exemption.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 177 - 2

EFFECTIVE: 09/26/90

177-2.1 | Title 42, USC, Section 3631 - Criminal Interference
Violations; Bodily Injury; Death; Penalties

This statute makes it unlawful for any individual(s), by the use of force or threatened use of force, to injure, intimidate, or interfere with (or attempt to injure, intimidate, or interfere with), any person's housing rights because of that person's race, color, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are:

- (1) The sale of a dwelling.
- (2) The purchase of a dwelling.
- (3) The renting of a dwelling.
- (4) The financing of a dwelling.
- (5) The occupation of a dwelling.
- (6) Contracting or negotiating for any of the rights enumerated above (1) - (5).
- (7) Applying for or participating in any service, organization, or facility relating to the sale or rental of dwellings.

The statute also makes it unlawful by the use of force or threatened use of force, to injure, intimidate, or interfere with any person who is assisting an individual or class of persons in the exercise of their housing rights. Finally, the statute makes it unlawful by the use of force or the threatened use of force to injure, intimidate, or interfere with any citizen who is participating lawfully in speech or peaceful assembly opposing any denial of an individual's opportunity to participate in any of the activities enumerated above. An individual convicted of violating this section shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. The important factor in applying this statute is that the defendant must have either used force or threatened to use force.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 177 - 3

EFFECTIVE: 09/26/90

177-2.2 | Title 42, USC, Section 3617 - Interference, Coercion, or
Intimidation; Enforcement by Civil Action

(1) This statute makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his/her having exercised or having aided or encouraged any other person in the exercise or enjoyment of any housing rights enumerated in Title 42, USC, Sections 3604-3606.

(2) This statute does not require the use of force or threat of force to find the conduct to be unlawful. However, enforcement of the statute is by civil action initiated by the Department of Justice or the Department of Housing and Urban Development (HUD), rather than criminal action.

EFFECTIVE: 09/26/90

177-2.3 | Title 42, USC, Section 3604 - Discrimination in the Sale
or Rental of Housing

(1) This statute prohibits the following activity where the rationale for the actor's conduct is the alleged victim's race, color, religion, sex, familial status or national origin: (Note that handicap status is not covered under these two sections.)

(a) Refusal to sell or rent a dwelling after a bona fide offer has been made; refusal to negotiate to sell or rent a dwelling; or otherwise make unavailable or deny a dwelling to any person.

(b) Discrimination against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services (i.e., use of a real estate broker) in connection therewith.

(2) The following conduct is prohibited by the statute if the rationale for the actor's conduct is the alleged victim's race, color, religion, sex, familial status, handicap, or national origin: (Note that handicap status is covered by these sections.)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 177 - 4

(a) Marking, painting, publishing, or causing to be made, printed or published any notice, statements, or advertisement, regarding the sale or rental of a dwelling that indicates any preference, limitation, or discrimination, or an intention to make any such preference, limitation or discrimination.

(b) Representing to any person that a dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(c) Inducing or attempting to induce, for profit, any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin. This is also known as the practice of "blockbusting."

Finally, the statute prohibits discrimination in sale or rental (and conditions thereof) to any buyer or renter because of the buyer/renter's handicap; the handicap of a person residing or intending to reside with the buyer/renter; and the handicap of an associate of the buyer/renter.

EFFECTIVE: 09/26/90

177-2.4 | Title 42, USC, Section 3605 - Discrimination in
Residential Real Estate-Related Transactions

(1) This statute makes it unlawful for any person or entity who is involved in a "residential real estate-related transaction" to discriminate in making available such a transaction, or requiring terms or conditions of such a transaction, on the basis of race, color, religion, sex, handicap, familial status or national origin.

(2) "Residential real estate-related transaction" is defined as one of the following:

(a) Making or purchasing of loans or providing other financial assistance for:

1. purchasing, constructing, improving,
repairing or maintaining a dwelling; or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 177 - 5

2. a financial transaction secured by
residential real estate.

(b) Selling, brokering, or appraisal of residential
real property.

EFFECTIVE: 09/26/90

177-2.5 Title 42, USC, Section 3606 - Discrimination in the
Provision of Brokerage Services

This statute makes it unlawful to deny any person access
to membership in, or participation in any multiple-listing service,
real estate brokers' organization, or any other service, organization,
or facility relating to the business of selling or renting dwellings,
on account of that person's race, color, sex, religion, familial
status, or national origin.

EFFECTIVE: 09/26/90

177-2.6 Title 18, USC, Section 241 - Conspiracy Against Rights of
Citizens (See MIOG, Part I, Section 44-1.1)

This statute is applicable to discrimination in housing
cases involving two or more persons who conspire to injure, oppress,
threaten, or intimidate any inhabitant of any state, territory or
district in the free exercise of the federally protected right to
housing (see Section 177-2.3, above).

EFFECTIVE: 09/26/90

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 177 - 6

177-2.7 Title 18, USC, Section 245 - Federally Protected Activities (See MIOG, Part I, Section 44-1.5)

This statute is applicable in discrimination in housing cases whenever the victim is participating in any federally protected activity and is also exercising his/her Federal rights to housing free from any discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin. Those federally protected activities which would be applicable would be those enumerated in MIOG, Part I, Section 44-1.5:

"(1)(b) A participant in, or a person enjoying, any benefit, service, privilege, program, facility, or activity provided or administered by the United States;"

"(1)(e) A participant in, or a person enjoying the benefits of, any program or activity receiving Federal financial assistance;"

"(2)(b) A participant in, or a person enjoying, any benefit, service, privilege, program, facility or activity provided or administered by a state or local government."

EFFECTIVE: 09/26/90

177-2.8 Exemptions From Coverage

(1) The provisions of the Fair Housing Act do not apply to any single-family house sold or rented by an owner (with the exception of Title 42, USC, Section 3604(c)) provided that:

(a) the private individual owner does not own or have an equitable interest in more than three such single-family houses at one time.

(b) in the case of a sale of any such single-family house by a private individual owner not residing in such house at the time of the sale shall only be able to claim the exemption from coverage once within a twenty-four month period; and

(c) there is not use of any broker or brokerage service in the sale of such single-family house.

(2) The provisions of the Fair Housing Act also do not